

EXHIBIT A

To: 'smontgomeryus@aol.com'[smontgomeryus@aol.com]
Cc: Doornbos, JoAnne[JoAnne.Doorbos@kingcounty.gov]
From: Shinbo, Sharron
Sent: Mon 3/23/2009 11:15:29 AM
Importance: Normal
Sensitivity: None
Subject: re: "END THE SIEGE OF GAZA" advertisement on Metro buses

Dear Mr. Montgomery,

Thank you for the March 12, 2009 email you sent to King County. The webmaster forwarded your message to me and I just left a voicemail message for you with my phone number.

Advertising space has been sold on Metro buses since 1973 through a contract with an outside firm. Our current contractor is Titan Outdoor. The revenue generated from this contract varies from year to year, but it has provided as much as \$7.25 million in one year to help fund transportation services throughout King County. In a great majority of the cases the advertising does not result in controversy. It is acknowledged, however, that each of us will occasionally find text or graphics used in advertising to be offensive or contrary to our own personal beliefs.

Metro has always accepted noncommercial advertising, including candidates for elected office, ballot measures, and "cause" advertising. Having accepted noncommercial advertising generally, Metro is legally constrained in its ability to accept or reject an advertisement based on the identity of the group purchasing the advertising or the message. As part of King County government Metro is less free than a private party, like a newspaper or TV station, to reject a particular advertisement. The free speech provisions of our state and federal constitutions limit a government's ability to regulate advertising content.

Given these legal constraints, the appearance of any advertisement on a bus should not be construed as a County endorsement for, or value judgment on, the message being advertised. That is not to say Metro accepts any advertisement. Below, I've included Metro's current advertising restrictions for your reference. Before accepting an ad for posting on Metro buses our contractor must review the face of the ad to see if the specific graphics or text would cause the ad to be denied posting based on the advertising restrictions. I've underlined subsection 6.6 that applied to the ad you referenced.

Again, I want to assure you that the placement of an advertisement on Metro buses does not, in any way, imply the Department of Transportation or the County endorse the product, services, person, or belief that is the subject of the advertisement. Thank you for taking the time to express your concerns to King County. If you have any questions, please feel free to call me, at 206-684-1547.

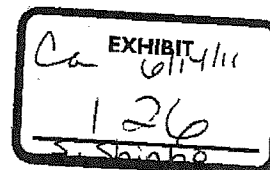
Sincerely,

Sharron Shinbo.

Program Project Manager

+++++
 +++++
 6.0 Restrictions on Advertising

6.1 The Consultant agrees that it will strictly comply with the restrictions set forth in this Section and any other restrictions imposed by the County during the term of this Agreement. In no event, however, shall the Consultant be entitled as a result of complying with this Section to any additional compensation or to a



KC_0056062

654961

reduction in the guaranteed amounts owed to the County under Section 16. In the event a proposed advertisement contains non-English language words or symbols, the Consultant shall be responsible for obtaining an interpretation from a qualified interpreter in order to determine whether the proposed advertisement complies with this Section. The Consultant also agrees to exercise its best efforts to encourage advertisers to use good taste in creating their displays. The Consultant shall immediately remove, at the Consultant's sole expense, any advertisement which the County has directed be removed.

6.2 The Consultant shall not place in or on a transit vehicle any advertising that (i.) promotes or depicts the sale, rental, or use of, or participation in, the following products, services or activities; or (ii) that uses brand names, trademarks, slogans or other material which are identifiable with such products, services or activities.

- A. tobacco products
- B. beer, wine, distilled spirits or any alcoholic beverage licensed and regulated under Washington law
- C. films rated "X" or "NC-17" or video games rated "A" or "M"
- D. adult book stores, adult video stores, nude dance clubs and other adult entertainment establishments
- E. adult telephone services, adult Internet sites and escort services

6.3 The Consultant shall not place in or on a transit vehicle any advertising that promotes any activity or product that is illegal under federal, state or local law.

6.4 The Consultant shall not place in or on a transit vehicle any advertising that contains or involves the following:

A. Any material that describes, depicts or represents sexual or excretory organs or activities in a way:

(1) which the average adult person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest of minors in sex; and

(2) which is patently offensive to contemporary standards in the adult community as a whole with respect to what is suitable material for minors to see; and

(3) which, when considered as a whole in the context in which it is used, lacks serious literary, artistic, political, medical, health or scientific value.

For purposes of this subsection, "sexual or excretory organs" shall mean and include the male or female pubic area, anus, buttocks, genitalia, or any portion of the areola or nipple of the female breast and "sexual or excretory activities" shall mean and include actual or simulated sex acts of every nature (including but not limited to touching of one's own or another's clothed or unclothed sexual or excretory organs), urination and defecation.

B. Any material that depicts, or reasonably appears to depict, a person under the age of eighteen (18) exhibiting his or her sexual or excretory organs or engaging in sexual or excretory activities.

C. Any material that the Consultant knows or reasonably should have known is false, fraudulent, misleading, deceptive or would constitute a tort of defamation or invasion of privacy.

D. Any material that is so objectionable under contemporary community standards as to be reasonably foreseeable that it will result in harm to, disruption of, or interference with the transportation system.

E. Any material directed at a person or group that is so insulting, degrading or offensive as to be reasonably foreseeable that it will incite or produce imminent lawless action in the form of retaliation,

vandalism or other breach of public safety, peace and order.

F. Flashing lights, sound makers, mirrors or other special effects that interfere with the safer operation of the bus or the safety of bus riders, drivers of other vehicles or the public at large.

6.5 Prior to giving notice to an advertiser that a proposed advertisement has been rejected pursuant to Subsections 6.2, 6.3 or 6.4 the Consultant shall inform the County.

6.6 The Consultant is permitted to sell political and other noncommercial advertising but shall ensure that any advertising which does not relate to a clearly-identifiable commercial product, service or business must include the following phrase in clearly visible letters (in letters no smaller than 72 point type for exteriors and 24 point type for interiors):

"Advertisement paid for by _____"

6.7 The County shall refer complaints received about an advertisement to the Consultant who shall respond to the complainant in writing within three business days and send a copy to the County. In the event a complaint is received, the Consultant agrees to obtain and keep on file a phone number for referral of complainants to the advertiser who created the advertising.

6.8 Any advertising undertaken to promote transit advertising or County transit programs shall be approved in writing by the County prior to being posted.

-----Original Message-----

From: Doornbos, JoAnne
Sent: Sunday, March 22, 2009 9:43 PM
To: Shinbo, Sharron
Subject: FW: "Stop The Seige of Gaza" metro buses

-----Original Message-----

From: Web, Master
Sent: Friday, March 13, 2009 5:08 PM
To: smontgomeryus@aol.com
Cc: Comments, Customer
Subject: RE: "Stop The Seige of Gaza" metro buses

I am forwarding your message to appropriate King County staff, cc'ed above.

Thanks for using the King County Web site! - Tom Braman, King County Web Team

-----Original Message-----

From: smontgomeryus@aol.com [mailto:smontgomeryus@aol.com]
Sent: Thursday, March 12, 2009 9:04 PM
To: Web, Master
Subject: "Stop The Seige of Gaza" metro buses

Path: <http://www.kingcounty.gov/>
Sent: 3/12/2009 9:04:16 PM
From: Scott Montgomery @ smontgomeryus@aol.com

Subject: "Stop The Seige of Gaza" metro buses

The ads on metro buses that have huge letters saying "STOP THE SEIGE OF GAZA" are sickening. This hate message, being dispensed by my taxes, by you, is anti-semetic, anti-Israel and

racist. King County appears to be allies of the terrorists. I am ashamed to live here.

ZIP : 98005

Phone: 425-445-9661

E-mail response requested: Yes

KC_0056065

654961

EXHIBIT B

To: jeff@silesky.net[jeff@silesky.net]
Cc: Shinbo, Sharron[Sharron.Shinbo@kingcounty.gov]
From: Pamela Quadros
Sent: Thur 2/26/2009 4:31:07 PM
Importance: Normal
Sensitivity: None
Categories: urn:content-classes:message
Arab American Community Coalition (Kings).pdf
DSCF1369.JPG
KCMTransit Advertising Restrictions.pdf

Jeff,

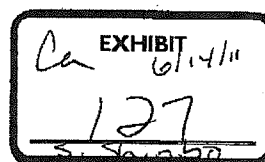
As requested here are copies of the bus ads that the non-profit civil rights organization, Arab American Community Coalition is running. Below is a link to their website which is indicated on the ad, as discussed, as a way to contact the civil rights group.
<http://www.theaacc.org/index.php>

You will also find attached the King County Metro (KCM) Advertising Restrictions. Titan does review every ad and compare the creative content of the advertisements to the restrictions as part of our contract with KCM. The restrictions are there to allow the freedom and opportunity for all organizations and associations either political or non-profit to benefit from using transit as a form of advertising their "cause". We hope you will understand and appreciate, that as a representative of a government entity, we are limited as is the county in our abilities to regulate advertising content because of free speech provisions of the state and federal constitution. In an ideal situation we would want to ensure all advertising is embraced by its viewers but that is not always possible because there is freedom of thought and opinion in the USA. The Arab American Community Coalition ads meet the advertising requirements we have of non-profit organizations and they abide by the restrictions outlined for non-commercial advertising.

Sharron Shinbo is the King County Metro contact person. I have included her in this email and her phone number is as follows: 206-684-1547.

If you have any further questions Sharron will be available to assist you as I will be out until March 9th.

Regards,



KC_0056140



Pamela Quadros
Vice President, General Manager
Titan Worldwide
4636 East Marginal Way South

Suite B-100
Seattle, WA 98134
P:206.762.2531
F:206.762.2532
www.titanoutdoor.com

KC_0056141

654991

EXHIBIT C

To: 'ALLAN GRAFMAN'[AllanGrafman@AllMediaVentures.com]
From: Thielke, Linda
Sent: Thur 12/23/2010 7:59:42 AM
Importance: Normal
Sensitivity: None
Subject: RE: Your call
Categories: True

Our legal counsel advise us the ads meet our established guidelines. I've included those below.

Agreement No: 04-TR01

Between King County and Titan Outdoor LLC Transit Advertising Sales and Related Support Services
January 2005

6.0 Restrictions on Advertising

6.1 The Consultant agrees that it will strictly comply with the

restrictions set forth in this Section and any other restrictions imposed by the County during the term of this Agreement. In no event, however, shall the Consultant be entitled as a result of complying with this Section to any additional compensation or to a reduction in the guaranteed amounts owed to the County under Section 16. In the event a proposed advertisement contains non-English language words or symbols, the Consultant shall be responsible for obtaining an interpretation from a qualified interpreter in order to determine whether the proposed advertisement complies with this Section. The Consultant also agrees to exercise its best efforts to encourage advertisers to use good taste in creating their displays. The Consultant shall immediately remove, at the Consultant's sole expense, any advertisement which the County has directed be removed.

6.2 The Consultant shall not place in or on a transit vehicle any

advertising that (i.) promotes or depicts the sale, rental, or use of, or participation in, the following products, services or activities; or

(ii) that uses brand names, trademarks, slogans or other material which are identifiable with such products, services or activities.

A. tobacco products

B. beer, wine, distilled spirits or any alcoholic beverage licensed and regulated under Washington law

C. films rated "X" or "NC-17" or video games rated "A" or "M"

D. adult book stores, adult video stores, nude dance clubs and other adult entertainment establishments

E. adult telephone services, adult Internet sites and escort services

6.3 The Consultant shall not place in or on a transit vehicle any

Thielke
EXHIBIT NO. *59*
5-20-11 P. HAMILTON, RPR

KC_0060105

advertising that promotes any activity or product that is illegal under federal, state or local law.

6.4 The Consultant shall not place in or on a transit vehicle any

advertising that contains or involves the following:

A. Any material that describes, depicts or represents sexual or excretory organs or activities in a way:

(1) which the average adult person, applying contemporary community standards, would find, when considered as a whole, appeals to the prurient interest of minors in sex; and

(2) which is patently offensive to contemporary standards in the adult community as a whole with respect to what is suitable material for minors to see; and

(3) which, when considered as a whole in the context in which it is used, lacks serious literary, artistic, political, medical, health or scientific value.

For purposes of this subsection, "sexual or excretory organs" shall mean and include the male or female pubic area, anus, buttocks, genitalia, or any portion of the areola or nipple of the female breast and "sexual or excretory activities" shall mean and include actual or simulated sex acts of every nature (including but not limited to touching of one's own or another's clothed or unclothed sexual or excretory organs), urination and defecation.

B. Any material that depicts, or reasonably appears to depict, a person under the age of eighteen (18) exhibiting his or her sexual or excretory organs or engaging in sexual or excretory activities.

C. Any material that the Consultant knows or reasonably should have known is false, fraudulent, misleading, deceptive or would constitute a tort of defamation or invasion of privacy.

D. Any material that is so objectionable under contemporary

community standards as to be reasonably foreseeable that it will result in harm to, disruption of, or interference with the transportation system.

E. Any material directed at a person or group that is so insulting,

degrading or offensive as to be reasonably foreseeable that it will incite or produce imminent lawless action in the form of retaliation, vandalism or other breach of public safety, peace and order.

F. Flashing lights, sound makers, mirrors or other special effects

that interfere with the safer operation of the bus or the safety of bus riders, drivers of other vehicles or the public at large.

6.5 Prior to giving notice to an advertiser that a proposed

advertisement has been rejected pursuant to Subsections 6.2, 6.3 or 6.4 the Consultant shall inform the County.

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"Advertisement paid for by _____"

6.7 The County shall refer complaints received about an advertisement

to the Consultant who shall respond to the complainant in writing within three business days and send a copy to the County. In the event a complaint is received, the Consultant agrees to obtain and keep on file a phone number for referral of complainants to the advertiser who created the advertising.

6.8 Any advertising undertaken to promote transit advertising or

County transit programs shall be approved in writing by the County prior to being posted.

-----Original Message-----

From: ALLAN GRAFMAN [mailto:AllanGrafman@AllMediaVentures.com]

Sent: Thursday, December 23, 2010 7:57 AM

To: Thielke@smtp2.suw.hosting-ops.com; Thielke, Linda

Subject: RE: Your call

Thanks for response, though surprised to hear. Can any person, group or country be accused of crimes in such an unsupported fashion? Can you please forward your guidelines for accepting these types of 'attack' ads. Thank you.

Best,

Allan

917-806-6373

Sent from my Windows Mobile® phone.

-----Original Message-----

From: Thielke, Linda <Linda.Thielke@kingcounty.gov>

Sent: Thursday, December 23, 2010 10:47 AM

To: ALLAN GRAFMAN <AllanGrafman@AllMediaVentures.com>

Subject: RE: Your call

The ads are scheduled to be installed the week of Dec. 27. The organization placing the ad buy purchased signage for 12 buses to run 4 weeks.

-----Original Message-----

From: ALLAN GRAFMAN [mailto:AllanGrafman@AllMediaVentures.com]

Sent: Thursday, December 23, 2010 7:46 AM

To: Thielke@smtp2.suw.hosting-ops.com; Thielke, Linda

Subject: RE: Your call

Thank you linda for your excellent follow up, as I did not get all that I need.

Can you please advise status of inflammatory , inaccurate and anti -Israel bus ads placed by muslim group on your public service buses? Thank you for your courtesy.

Best,

Allan

917-806-6373

Sent from my Windows Mobile(r) phone.

-----Original Message-----

From: Thielke, Linda <Linda.Thielke@kingcounty.gov>

Sent: Thursday, December 23, 2010 10:25 AM

To: 'AllanGrafman@AllMediaVentures.com' <AllanGrafman@AllMediaVentures.com>

Subject: Your call

Allan:

I believe you left me a message last night, but the return number you gave me is for your fax machine.

Did you still need to talk, or did you get what you needed last night?

Let me know.

--Linda

Linda Thielke, communications specialist King County Department of Transportation
Phone: 206-684-1414

EXHIBIT D



King County

Dow Constantine
King County Executive

News Release

Date: December 23, 2010

Executive Contacts: Frank Abe, 206-263-9609
Christine Lange, 206-263-9752

Metro Transit contact: Linda Thielke, 206-684-1414

Citing potential for disruption to transit service, Executive implements interim Metro policy restricting new non-commercial advertising on buses

**Escalation of global interest in ad critical of Israel raises risk of service disruption;
Metro rejects ad and response ads**

Citing the potential for disruption to transit service, King County Executive Dow Constantine today approved an interim policy from Metro Transit that calls for a halt to the acceptance of any new non-commercial advertising on King County buses. Under provisions of the previous policy, Metro officials today also rejected a proposed ad from the Seattle Mideast Awareness Campaign and the proposed response ads from two other groups.

"The escalation of this issue from one of 12 local bus placards to a widespread and often vitriolic international debate introduces new and significant security concerns that compel reassessment," said Executive Constantine.

"My job is to deliver essential services to the people of King County, including transit service," he added. "I have consulted with federal and local law enforcement authorities who have expressed concern, in the context of this international debate, that our public transportation system could be vulnerable to disruption.

"Metro sells advertising to raise revenues to provide transit service. Metro's existing policy restricts advertising that can be reasonably foreseen to result in harm to, disruption of, or interference with the transportation system. Given the dramatic escalation of debate in the past few days over these proposed ads, and the submission of inflammatory response ads, there is now an unacceptable risk of harm to or disruption of service to our customers should these ads run."

In light of the recent escalation of events, Metro Transit General Manager Kevin Desmond today asked his advertising consultant to notify the Seattle Mideast Awareness Campaign that Metro is rejecting its proposed ad, and for the consultant to notify the David Horowitz Freedom Center and the American Freedom Defense Initiative that Metro will not accept their proposed ads, as posing an unacceptable risk of harm to, disruption of, or interference with bus service, as defined under current policies.

In response to the Executive's directive on Monday to review current policies, Desmond today also recommended an interim transit advertising policy that adds

Thielke
EXHIBIT NO. 41
5-20-11 P. HAMILTON, RPR

KC_0000003

non-commercial ads to the list of current restrictions, with an exception for governmental entities that advance specific government purposes. Non-commercial ads that met the previous policy and for which contracts have already been signed are not affected, and ads already in place will remain.

"We cannot and would not favor one point of view over another, so the entire category of non-commercial advertising will be eliminated until a permanent policy can be completed that I can propose to the King County Council for adoption," said the Executive. "Further work during the coming weeks will help determine what constitutionally-valid policy is best for the safety and well-being of the transit-riding public, our drivers and personnel, and the community at large.

"I thank everyone who has reached out to us to express their interests on this matter."

Metro expects to complete work on a permanent transit advertising policy by the end of January, for the Executive to transmit to the County Council for adoption.

Read the Interim Transit Advertising Policy at:
www.kingcounty.gov/exec

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EXHIBIT E

To: Titan - Pamela Quadros[pquadros@titanoutdoor.com]; Titan - Bruce. Krivosha (bruce.krivosha@titanoutdoor.com)[bruce.krivosha@titanoutdoor.com]; Titan - Gail Worthen[gail.worthen@titanoutdoor.com]; Titan - Donald R. Allman[dallman@titanoutdoor.com]; Titan - Scott E. Goldsmith[sgoldsmith@titanoutdoor.com]
Cc: Desmond, Kevin[Kevin.Desmond@kingcounty.gov]
From: Shinbo, Sharron
Sent: Sat 12/18/2010 1:36:36 PM
Importance: Normal
Sensitivity: None
Subject: 'Israeli War Crimes' signs to go on Metro buses | KING5.com | Seattle Area Local News
Categories: en-US

<http://www.king5.com/news/local/Israeli-War-Crimes-signs-to-go-on-Metro-buses-112108154.html>

Greetings,

Interesting, and good, that over 70% of the people who voted thought the ads should be allowed on the bus.

Desmond
EXHIBIT NO. 58
531-11 P. HAMILTON, RPR

KC_0056308

655054.

EXHIBIT F

To: Mulligan, Lisa K (Pepin)[LisaKPepin.Mulligan@kingcounty.gov]
From: Desmond, Kevin
Sent: Wed 12/22/2010 6:09:02 PM
Importance: Normal
Sensitivity: None
Subject: Re: need quick clarification
Categories: True

Yes, you are authorized.

However, this whole deal is extremely fluid and tomorrow we may have a big change in plans. For now what you have in place works for me. Thanks

From: Mulligan, Lisa K (Pepin)
Sent: Wednesday, December 22, 2010 05:39 PM
To: Desmond, Kevin
Subject: need quick clarification

Quick Clarification please –

The last line of the Security Plan message says “Heads up that we may need to drastically change the 2 week old 358 emphasis in order to have the bodies to make this happen, regardless of the cost”.

Am I authorized to stop the 358 emphasis to adjust resources to the new campaign?

As we progress into the new plan, we can intermittently and lightly staff the 358 again.

Thank you

Lisa

Desmond
EXHIBIT NO. 65
0-31-11 P. HAMILTON, RPR

KC_0048925

649839

Captain Lisa Mulligan

Metro Transit Police

King County Sheriff's Office

"Every Call Counts"

Desk 206-263-5140 Cell 206-391-7931

Lisa.Mulligan@kingcounty.gov

From: Desmond, Kevin
Sent: Wednesday, December 22, 2010 4:26 PM
To: Mulligan, Lisa K (Pepin)
Cc: O'Rourke, Jim; Thielke, Linda; Jolly, Dave; Alidina, Abdul; Winders, Randy
Subject: RE: Security Plan Basics
Importance: High

Lisa: thanks. I think this looks like a good plan of action. I understand you are still waiting on Operations and other decisions as to which routes. I think that will be pinned down tomorrow.

Please give me the names and contact numbers for the people taking over in your absence.

Thanks

From: Mulligan, Lisa K (Pepin)
Sent: Wednesday, December 22, 2010 3:14 PM

KC_0048926

649839

To: Desmond, Kevin
Subject: Security Plan Basics

Kevin,

We're still waiting for specifics but I can tell you that our immediate recommendation would be for the mid-range MTP response plan that will include:

MTP:

Staff (6) mobile Deputies, during the designated peak hours (4 -5 hours in the morning; 4-5 hours in the evening) for the selected routes to follow, escort and respond to calls for assistance

Variety of marked and unmarked cars

Variety of uniforms and plain clothes some unmarked cars

(retain flexibility to react to changing conditions)

Once route is clearly defined, work with affected agencies to garner support/partnership.
(this work has begun in the City of Burien)

Place Rapid Ride Fare Enforcement Officers in "Conductor Mode" as outlined by Mark Norton. This will free up MTP resources from their current responsibilities to assist in the directed patrols

Increased random patrols of all bases 24/7 by marked patrol cars

Advise neighboring police agencies of changing status, as circumstances could affect them

DSTT coverage is already increased, including EOD dogs through January 2nd. We'll monitor the activity and lengthen the duration of that mission if it's deemed necessary

KC_0048927

649839

We will build a basic response plan for attempts to shut down the E-3 around Ryerson

We will provide written guidelines for Metro Employees to follow in the even that they perceive that they receive a threat (email, voice, in-person)

Demonstration Management

Known demonstrations within the City of Seattle will be staffed by Seattle PD

Currently: SPD will have (1) Bike Squad, 5-6 at the 12/27 Pro Israel Rally at 2nd/Jackson from 1000-1400

SPD will have (1) Bike Squad, 5-6 at the Westlake Pro Palestine Rally at Westlake and walking with them from 1700-1900 hours

Neither of these events have been given permits. SPD will shadow them and not intervene unless they have to (standard practice)

Spontaneous demonstrations will be handled by the local jurisdiction, as appropriate. MTP will assist if available to do so.

Ryerson Base Buses with Ads

MTP requests that all of the selected buses have cameras installed

MTP requests that all of the selected buses be parked, together if possible, in the center aisles of the lot or at least not visible to passersby.

All Bases

Increased presence by Security Guards at Base gates (plan has been established by Mark Norton through LaRitz and DeCapua). This plan could be extended if funding is authorized.

MTP requests an Operator Bulletin at all of the bases to include:

Above mentioned guidelines about identifying and reporting threats

Reminders of vigilance

Reminder to ask for a police response if they perceive a problem, preferably before the problem gets out of hand

Please make yea or nay notes and return it to me or we can talk about each point and add/subtract as you prefer.

If you agree with this basic plan, I will move forward with projecting associated costs once I have specifics. Clearly, those specifics are really important for us to get all of this implemented by Monday.

Heads up that we may need to drastically change the 2 week old 358 emphasis in order to have the bodies to make this happen, regardless of the cost.

More to follow. I'm at my desk.

Lisa

Captain Lisa Mulligan

KC_0048929

649839

Metro Transit Police

King County Sheriff's Office

"Every Call Counts"

Desk 206-263-5140 Cell 206-391-7931

Lisa.Mulligan@kingcounty.gov

KC_0048930

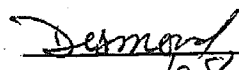
649839

EXHIBIT G

To: Berry, Rhonda[Rhonda.Berry@kingcounty.gov]; Abe, Frank[Frank.Abe@kingcounty.gov]; Brown, Laurie[Laurie.Brown@kingcounty.gov]
Cc: Brezonick, Carri[Carri.Brezonick@kingcounty.gov]; Shinbo, Sharron[Sharron.Shinbo@kingcounty.gov]
From: Desmond, Kevin
Sent: Mon 12/20/2010 1:37:12 PM
Importance: Normal
Sensitivity: None
Subject: Ad
Categories: True

As you've heard, it appears that a lot of the correspondence coming in on the ad is from out of state. Our customer services office is seeing the same patter as well.

As we consider how to respond, we should be cognizant of where the complaints are coming from and try our best to evaluate local interests and opinions.


EXHIBIT NO. 68
031-11 P. HAMILTON, RPR

KC_0008261

616115

EXHIBIT H

To: Carson, Kendall[Kendall.Carson@kingcounty.gov]
From: DeCapua, Mike
Sent: Wed 12/22/2010 4:15:52 PM
Importance: High
Sensitivity: None
Subject: FW: Seattle Metro Bus ad
Categories: True

From: DeCapua, Mike
Sent: Wednesday, December 22, 2010 8:16 AM
To: Jones, Tom; Avery, Michael; Lewis, Dale
Subject: FW: Seattle Metro Bus ad
Importance: High

Gents,

Please review your security postures, augment where needed, and ensure staffs are briefed to report all suspicious activity and packages to TCC/LCC and 9-1-1.

Thanks,

Mike

From: DeCapua, Mike
Sent: Wednesday, December 22, 2010 7:48 AM
To: 'Tony Tisdale'; 'james.spinden@dhs.gov'
Cc: 'WSFC'; Raines, Doyle; 'Wise, Ginny'; 'Doug Larm'; 'Mark.Soper@wsp.wa.gov'; 'Bill Henkel-WSP'; 'Woodward, Bill'; Calder, Gregg; 'Cordova, Charles'; Mulligan, Lisa K (Pepin); Hurley, William; Harrington, Roy; 'Cummins, Kenneth'; Sherry, Keith; DeCapua, Mike
Subject: FW: Seattle Metro Bus ad
Importance: High

EXHIBIT NO. 161
P. HAMILTON, RPR

KC_0016143

622434

Good morning Jim and Tony,

The Metro bus ad controversy has far outreached the First Amendment issues from where it began last week when the media revealed that a Pro-Palestinian group has purchased outside ad space on 12 of our downtown buses reading "Israeli War Crimes, Your Tax Dollars At Work". Hamas has seized on the controversy as the writer of the email below has indicated, raising Metro's profile in the murky world of terrorist groups. As a result, we have taken additional security measures using the TSA Holiday Surge program and our TSGP grants.

Please do not disseminate outside of DOT and TSA. More to follow as this unfolds.

WSFC/SFD/SPD/WSP, same.

Regards,

Mike

From: Desmond, Kevin
Sent: Wednesday, December 22, 2010 7:29 AM
To: DeCapua, Mike
Subject: FW: Seattle Metro Bus ad

fyi

KC_0016144

622434

From: Kim Goodrich [mailto:kim_goodrich@hotmail.com]
Sent: Wednesday, December 22, 2010 4:10 AM
To: Desmond, Kevin
Subject: Seattle Metro Bus ad

Greetings,

I've come to understand that King County Metro has approved new bus ads starting next week that read "Israeli War Crimes", "Your Tax Dollars at Work". I assume, as the General Manager of Seattle Metro, you either have some authority over the the ad department or could possibly forward my email to the respective person or department head. While I strongly disagree with the decision to run the ads, I will not argue the point of whether they should be allowed run or not. The reason I am writing is to inform you of some of the consequences of the current policies and poor decision making of that department.

I happened across a message and link on twitter tonight concerning the bus ad controversy from a very troubling website, the website called the Al-Qassam Brigades is an information and news site of the military wing of Hamas (Hamas is designated as a terrorist organization by the State Department). This website and I'm very sure, many others like it, will be using the message of the bus ads and the tacit agreement of the State of Washington as propaganda fodder against the State of Israel as well as our troops currently in the Middle East and around the world. While these kinds of extremists don't need any real reason to lay blame and conspiracy theories at our ally Israel's door, I would like to think that the State Government to which I've paid taxes, does not HELP the cause of terrorists by handing them prime propaganda and blood libel on a silver platter. To wit I've already spoken to two friends in Seattle that will no longer be using the Metro in protest, I don't normally ride Metro but I will also be abstaining even should the need arise. I've include below a few links in reference to the website I described above.

Thank you for your time,

Kimberly Goodrich, Sammamish WA

The Wikipedia page with some information about the Al-Qassam Brigades:

http://en.wikipedia.org/wiki/Al-Qassam_Brigades

The website itself including the story about the Washington bus ads:

http://www.qassam.ps/news-3950-Israeli_War_Crimes_signs_to_go_on_Metro_buses.html

4-1-11

As well as the original twitter message where I saw the link to the website:

<http://twitter.com/AlqassamBrigade/statuses/17527529816461312>

KC_0016146

622434

EXHIBIT I

To: Cole-Tindall, Patti[Patti.Cole-Tindall@kingcounty.gov]; Brown, Laurie[Laurie.Brown@kingcounty.gov]; Johnson, Jim[Jim.Johnson@kingcounty.gov]
From: Levin, David
Sent: Thur 12/23/2010 10:20:26 AM
Importance: Normal
Sensitivity: None
Subject: Update from Transit
Categories: True

Patti—

I just spoke with Dave Jolly. Dave is a Supervisor. He is acting for Jim O'Rourke, the manager, who has the day off.

Dave tells me that there has not been a formal announcement or written statement to employees about opting out of taking a particular bus. In fact, it's unlikely that anything would be written. The rules would be communicated orally to employees who are assigned on the route with the buses with the ads by their Chiefs on Monday. Note that Dave said they're not expecting the buses with the ads to be in service until after the PM rush hour Monday. Note that this may have been communicated informally already to a few Operators who have asked how things will be handled.

I was on the phone call with Paul Bachtel yesterday. Jim O'Rourke communicated to Paul "what we were thinking" as the best way to handle employees who don't want to drive the buses (i.e. you can't opt out because you disagree with the message; you can opt out if you express safety concerns). Paul said this sounded like a good plan. That's the extent of our "agreement" with the union.

Note that the reason Metro likes this approach is it is consistent with how they normally run business. You have to take the coach that's assigned to you, unless you express safety concerns about it (which normally relate to the breaks, the lights, etc.).

dsI

David S. Levin

J. O'Rourke
EXHIBIT NO. 10
5-6-11 P. HAMILTON, RPR

KC_0008666

Labor Negotiator

King County Office of Labor Relations

500 Fourth Avenue, Room 450, Seattle, WA 98104

Phone: (206) 296-8585, Fax: (206) 205-1395

david.levin@kingcounty.gov

P Please consider the environment before printing this e-mail.

EXHIBIT J

Paul Bachtel

May 26, 2011

Page 1

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SEATTLE MIDEAST AWARENESS	)	No.
CAMPAIGN, a Washington	)	2:11-cv-00094-RAJ
non-profit corporation,)	
Plaintiffs,)	
vs.)	
KING COUNTY, a municipal)	
corporation,)	
Defendants.)	

Deposition Upon Oral Examination Of
PAUL BACHTEL

May 26, 2011
500 Fourth Avenue, Floor 9
Seattle, Washington

REPORTED BY: PEGGY FRITSCHY HAMILTON, RPR, CSR, CLR,
29906/No. 2704

1 Q. And when you say we, who do you mean?

2 A. We, members of the union. There were a
3 number of -- I received a number of calls over that
4 ad, as well, that people were not pleased with having
5 to drive a bus with that type of a sign on the side.

6 Q. Was the union proposing that responsive ads
7 or counter ads to the atheist ad be put on Metro
8 buses?

9 A. No.

10 Q. What did you mean about what they were going
11 to do?

12 A. Oh. I had people ask me at base visits,
13 Print stickers that said God loves you, and stick them
14 over the top of the ad. The union has responded
15 before by defacing Metro's ads. Members of the union
16 has. The union hasn't officially. Members of the
17 union have responded negatively through work actions
18 to other ads, such as the Rush Limbaugh ads. The ones
19 from the year prior. There have been different ads
20 over the years that have raised the hackles of union
21 members.

22 Q. In some of those instances, the union members
23 have defaced the ads that were on the buses?

24 A. Yes.

25 Q. And does that result in any kind of

1 phone call?

2 A. No.

3 Q. What was the next thing, then, that you did
4 when it came to the SeaMAC ad?

5 A. Next thing I did was I began to receive
6 emails and phone calls. I just answered the emails
7 and phone calls that came in.

8 Q. Concerning the SeaMAC ad?

9 A. Correct.

10 Q. How many emails do you think you received?

11 A. Maybe from members, King County Council
12 members that I contacted that responded back, I mean,
13 it depends on how you look at that, but --

14 Q. How about if we do this --

15 A. Maybe a dozen.

16 Q. All right. Let's talk about emails that you
17 received to you for the first time, so not in response
18 to something you had sent.

19 A. Yes.

20 Q. Not in response to a call you may have made,
21 or anything like that. Just an email that came to
22 you, as lawyers like to say, sua sponte?

23 A. Maybe about 10 or 12.

24 Q. Over what period of time did this happen?

25 A. Several days.

1 members gather together and direct me to call a
2 meeting.

3 Q. Half of the members of the board?

4 A. Yes.

5 Q. All right.

6 A. That's never happened, but it's in our bylaws
7 that they could do that.

8 Q. Was any effort made to do that here in this
9 case, that is, have an additional or extra executive
10 board meeting to talk about the SeaMAC ad?

11 A. No.

12 Q. Mr. Bachtel, did you have telephone calls
13 with members?

14 A. Yes.

15 Q. And that's included within the 20 or 30
16 telephone calls?

17 A. Yes.

18 Q. Did you have telephone calls about this ad
19 with folks that were not either a member of the
20 executive board or of the ATU?

21 A. Yes.

22 Q. Do you remember who they were?

23 A. Random citizens calling the union to express
24 their opinions.

25 Q. Did you receive any opinion from the outside

1 Q. During, or at least at the time of that call,
2 Mr. Bachtel, were you aware of any specific
3 information that led you to conclude that there might
4 be violence?

5 A. That was during the middle of the time when I
6 was receiving phone calls and emails, and some of the
7 phone calls and emails that came to me suggested that
8 there was a high potential for violent acts to occur.

9 Q. And how many of those do you think there
10 were?

11 A. Out of the dozen emails, I think I cited
12 several of them in my email to the King County Council
13 members, or addressed to Kevin Desmond and copied to
14 the King County Council members. I heard from a
15 retired state patrolman --

16 Q. I think we're just asking about numbers.

17 A. Oh.

18 Q. Out of the emails and phone calls, how many
19 specific instances were there that led you to conclude
20 that there might be violence?

21 A. Twenty to thirty. I think every one I spoke
22 with was making the same contention: they were
23 concerned about the potential for violence.

24 Q. Is this they were concerned there might be,
25 or that they knew of violence that might happen?

1 A. No. They were concerned there might be.

2 It's all speculation.

3 Q. Indeed. Did you ever forward to any type of
4 law enforcement agency information about a specific
5 communication that you received that you believed
6 indicated there might be violence?

7 A. Yeah. I clicked reply all on one email from
8 one gentleman who sent in an email, and in the copy
9 reply all section, he had copied the Seattle office of
10 the FBI, and so when I clicked reply all, I think it
11 went back to the FBI, as well.

12 Q. Assuming he had the right email address?

13 A. Assuming, yeah. Beats me.

14 Q. Other than that one instance, were there any
15 times that you recall referring a specific
16 communication to any law enforcement agency about the
17 SeaMAC ad that led you to believe that there was
18 something about what was said concerning violence?

19 A. I do not recall whether I cc'd Dave Jutilla.
20 If I did, I would have cc'd Dave Jutilla, who was
21 chief of the transit police. I don't recall whether I
22 included him in the email copy, or not.

23 Q. You are talking about the same reply all
24 click that you just referred to?

25 A. Yes, or any of the other -- yeah, that would

1 A. No. I don't think there's a policy that
2 governs it. I believe that plan was an ad hoc plan
3 put together just to deal with the situation that was
4 in hand.

5 Q. Did you agree with that plan?

6 A. I did.

7 Q. What was your understanding of how Metro
8 would divine what the operators' potential objection
9 was?

10 A. I don't know. I have no idea how they would
11 divine that.

12 Q. I take it that the details of that particular
13 part either were not said or you don't remember?

14 A. I don't know.

15 Q. Did Mr. O'Rourke describe to you any other
16 features of Metro's operation plan concerning the
17 SeaMAC ad?

18 A. No.

19 Q. So, there was the security plan, which was
20 the facilities and the buses and the employees, and
21 then there was a plan for working with operators who
22 may have objections to driving a bus with the ad on
23 it, and some information about Metro Transit Police in
24 separate cars being around the buses as they were
25 driving.

1 between Metro and the ATU?

2 A. Yes.

3 Q. In what respect?

4 A. Numerous disagreements over the years over
5 different ads on the buses. ATU has objected to them.

6 Q. To specific ads; right?

7 A. To specific ads, yes.

8 Q. I think by my question I was more interested
9 in the issue of the advertising policy itself, rather
10 than specific ads.

11 A. I think that's the first time we'd ever
12 addressed the advertising policy.

13 Q. All right.

14 (Discussion off record.)

15 THE WITNESS: No, that doesn't -- no.
16 That's a different issue.

17 Q. Just for the record, what you just said,
18 Mr. Bachtel, was in response to something that you and
19 Mr. Freed had discussed?

20 MR. FREED: Actually, it would be really
21 helpful if we just strike that, if you are okay with
22 that.

23 MR. GRANT: Noted.

24 MR. FREED: Fair enough.

25

1 open -- nothing like that, no. We intentionally do
2 not do that.

3 Q. Are there other blogs like Mr. Welch's that
4 you are aware of; individual members who may have a
5 blog and then invite comment and conversation among
6 the membership?

7 A. I'm not aware of any -- I'm not aware that
8 any of them are currently up and running, but there
9 have been a number of them like Yahoo groups and
10 different of those group things you can set up through
11 ISPs that have come and gone throughout the years.

12 Q. Facebook?

13 A. I believe there is a Facebook page running
14 now.

15 Q. What's the name of that one?

16 A. I don't recall. I don't visit it.

17 Q. I take it, Mr. Bachtel, in your position as
18 the president that you get a variety of communications
19 from your members who are raising issues that they're
20 not happy with?

21 A. Yes, that's a good job description for me.

22 Q. Over the course of a year, how many of these
23 kinds of communication do you think you get?

24 A. Unhappy members, maybe five or ten a day,
25 emails or phone calls.

EXHIBIT K

Carri Brezonick

June 1, 2011

Page 1

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SEATTLE MIDEAST AWARENESS	)	No.
CAMPAIGN, a Washington	)	2:11-cv-00094-RAJ
non-profit corporation,)	
Plaintiffs,)	
vs.)	
KING COUNTY, a municipal)	
corporation,)	
Defendants.)	

Deposition Upon Oral Examination Of
CARRI BREZONICK

June 1, 2011
500 Fourth Avenue, Suite 900
Seattle, Washington

REPORTED BY: PEGGY FRITSCHY HAMILTON, RPR, CSR, CLR,
29906/No. 2704

1 December 2010.

2 A. Okay.

3 Q. It's designed to be a reasonably
4 straightforward process. We do it by question and
5 answer, so I'll ask a question, and then you answer as
6 best you can. If at any time the questions are not
7 clear, if you did not understand the question or for
8 any reason need it to be repeated or asked a different
9 way, let me know, and we'll do that. All right?

10 A. Yes.

11 Q. Your testimony and my questions and any
12 comments of anybody unless we otherwise agree will be
13 on the record. Were you aware of that?

14 A. Yes.

15 Q. Did you know that what you were saying today
16 could be used in court as though you were testifying
17 in person?

18 A. Yes.

19 Q. All right. What is your current position?

20 A. I am the supervisor of Metro Transit's
21 customer information office.

22 Q. Do you work for King County?

23 A. Yes, I do.

24 Q. Are you assigned to any particular
25 department?

1 A. Yes.

2 Q. What is it?

3 A. Sales and customer service.

4 Q. And is that within --

5 A. I'm sorry. Department?

6 Q. Yes, ma'am.

7 A. That would be the King County Department of
8 Transportation.

9 Q. Okay. How long have you had that position?

10 A. Nearly three years.

11 Q. What are the duties that you have in that
12 position?

13 A. I manage a call center for Metro Transit, I
14 respond to customer inquiries and complaints, I
15 respond on behalf of the Metro Transit general manager
16 to customer inquiries, and prepare replies for
17 contacts made to the County Exec and County Council
18 members and other elected officials, I guess.

19 Q. Are the customer information office and the
20 call center different?

21 A. No.

22 Q. How many people work for you?

23 A. I have approximately 26 call center staff and
24 four administrative staff.

25 Q. Generally, what's the difference between a

1 call center person and an administrative person?

2 A. Call center staff answer the phones or
3 respond to emails, and the four administrative staff
4 supervise the activities of the call center staff.

5 Q. Do you know how it is that emails would get
6 routed to your team if they were not specifically
7 directed, say, to the call center or the customer
8 information office?

9 MS. GANNETT: Objection, calls for
10 speculation.

11 Answer, if you can.

12 Q. Do you know how that happens?

13 A. It depends.

14 Q. All right. What does it depend on?

15 A. Well, it depends on who the -- who received
16 the original email.

17 Q. Okay. Hypothetically, let's say I wanted to
18 complain about an ad that was going to be on a bus I
19 heard about, but I didn't really know who to call or
20 send an email to, so I went to the King County website
21 and clicked on KingCounty.gov and complained about it.
22 How does that end up to you?

23 MS. GANNETT: Again, objection,
24 speculation.

25 But go ahead.

1 for you?

2 A. No, I don't remember.

3 Q. Very well. What's the next thing you
4 remember, I guess, either seeing or hearing concerning
5 the SeaMAC ad?

6 A. A member of my staff when I came in on the
7 morning of the 20th, the individual that processes the
8 email alerted me to the fact that we'd received a
9 large number of emails over the weekend.

10 Q. Do you remember how many?

11 A. I don't.

12 Q. Was it more than 100?

13 A. I don't remember if he told me a number, or
14 not. It was just a lot.

15 Q. Very well. Do you remember who that was that
16 told you that?

17 A. Yes.

18 Q. Who?

19 A. Bryan Ballestrasse.

20 Q. You are going to have to help us with both
21 first and last on that one.

22 A. I was afraid you were going to ask me that.

23 Q. You are under oath.

24 A. Yeah. I'll do my best. B-R-Y-A-N,
25 B-A-L-L-E-S-T-R-A-S-S-E, I believe. I think that's

1 kept?

2 A. They're stored electronically.

3 Q. How is it that they're stored? Do they have
4 a particular file? How are they categorized?

5 MS. GANNETT: Objection, calls for
6 speculation.

7 Q. In terms of how they're kept.

8 A. Well, I'm not a real wizard with technology,
9 so I'll do my best to describe what I -- how I
10 understand they're kept.

11 Q. All right.

12 A. Each individual email as it's received is
13 given a number, and then they're stored in that
14 fashion.

15 Q. Do you know if there's a process to store
16 emails that come to your team in any other fashion?

17 A. Yes.

18 Q. What's that?

19 A. They are entered into a database that we use,
20 and then they are stored in there, as well.

21 Q. Do you know if they're stored by topic in any
22 way?

23 A. They're stored by number. They can be
24 queried by topic.

25 Q. For example, let's say somebody wanted you to

1 provide them with all of the emails about the SeaMAC
2 ad that came in to your team between December 18 and
3 December 23, 2010, would you be able to deliver that?

4 A. Yes.

5 Q. Is that because the emails are stored by some
6 sort of name or topic or subject matter?

7 A. Well, as I mentioned, the emails are stored
8 numerically. The number, I believe, is associated
9 with the database, which gives it a number, so the
10 emails are stored separately than the database.

11 Q. As you understand it, is the number assigned
12 based on when the emails come in?

13 A. No. They're based on when they're entered
14 into the database.

15 Q. Who does that?

16 A. Who enters the emails into the database?

17 Q. Yes, ma'am.

18 A. Mostly it's Bryan Ballestrasse.

19 Q. Is there a collection of the emails that were
20 received by King County concerning the SeaMAC ad?

21 A. Yes.

22 Q. How many of them are there?

23 A. I believe there's over 6,000.

24 Q. Are those emails categorized any other way
25 than received during a certain window of time about

1 Q. I think I am. Maybe I should break it down.

2 A. Sure.

3 Q. Is there any sort of quantitative analysis of
4 the emails; for example, how many came in a particular
5 day? How many were, say, for the ad? Against the ad?
6 How many were threatening? How many were not
7 threatening? Things of that nature.

8 A. Somewhat, I guess. As I said, they were all
9 sent to me, and so I made an effort to try and divide
10 them up by not by date, because quite honestly, an
11 email, that's easy to determine based on how you sort
12 them within the email file, so by content I made some
13 effort to categorize some of them and read them for
14 content, but as far as an analysis of content or other
15 features to it, no, there was not.

16 Q. Did you complete your reading of the emails?

17 MS. GANNETT: Objection --

18 A. I read the majority of them.

19 Q. Have you read all of them?

20 A. I can't say that.

21 Q. All right. Have you ever created a written
22 document concerning your read or review of the emails?

23 A. Yes.

24 Q. When did you do that?

25 A. I believe it was either toward the end of

1 number that is calling whether they give it or not?

2 A. No.

3 Q. Like caller ID?

4 A. I don't believe so. It comes in through an
5 ACD, so I'm not certain it does.

6 Q. You are already way over my head on that one.

7 A. Okay.

8 Q. The date, is that recorded?

9 A. Yes.

10 Q. The length of the call?

11 A. No.

12 Q. Is there a database for this type of
13 information concerning telephone calls that came in
14 about the SeaMAC ad?

15 A. There's only one database.

16 Q. Are the telephone calls in that database?

17 A. Some of them.

18 Q. Do you know what the criteria was for
19 including some and not including others?

20 MS. GANNETT: Objection, misstates
21 testimony.

22 Go ahead.

23 A. Can you ask me the question again?

24 Q. Yes, ma'am.

25 A. Okay.

1 Q. February, I think.

2 A. February, I believe we got a couple in
3 relationship to the news articles about that, yeah.

4 Q. Did those go into the database?

5 A. No.

6 Q. Do you know at what point in time your team
7 quit entering or logging the emails about the SeaMAC
8 ad into the database?

9 A. Emails, on that Monday.

10 Q. December 27th?

11 A. No. The first Monday, the 20th.

12 Q. Yes.

13 A. Would be that day.

14 Q. And why is that?

15 A. Because of the sheer volume.

16 Q. Have the emails been kept anywhere?

17 A. Yes.

18 Q. Where are they?

19 A. Well, I have them on my computer, and they've
20 been stored on a CD.

21 Q. And these would be all of the emails that you
22 or your team received about the SeaMAC ad?

23 A. Or were forwarded to me.

24 Q. Yes, I guess I was including that. Either
25 sent directly to your team or sent by others who had

1 Q. Did you take off Wednesday, Thursday, and
2 Friday of the week of the 20th?

3 A. I wasn't in the office.

4 Q. Where were you?

5 A. Where was I?

6 Q. Yes, ma'am.

7 A. Home.

8 Q. Were you working at home?

9 A. Yes.

10 Q. Did you work full time?

11 A. No.

12 Q. All right.

13 A. No, not full time.

14 Q. All right. Did that auto reply message stay
15 on active, I guess is the word, until you came back on
16 the 27th?

17 A. Yes.

18 Q. Did you have a similar type message on your
19 voicemail greeting?

20 A. Yes.

21 (Exhibit-78 marked.)

22 Q. Exhibit-78, is this the email that came to
23 you from Sharron Shinbo that you mentioned earlier? I
24 think you called it the for your information.

25 A. Yes.

1 A. As I mentioned, all emails and phone calls
2 regarding the SeaMAC ad were forwarded to me, and I
3 was reading the emails.

4 Q. Were there any messages that you either read
5 or listened to where you contacted Sergeant Bill
6 Hurley of the Metro Transit Police Joint Transit
7 Antiterrorism Team?

8 A. No.

9 (Exhibit-82 marked.)

10 Q. Exhibit-82 is a string of emails. It's the
11 one in the middle on the first page, Ms. Brezonick,
12 that I think I'm most interested in asking you about.
13 It came to you from Laurie Brown.

14 A. Okay.

15 Q. Did you ever send Laurie Brown any messages
16 that you considered to be threatening or potentially
17 threatening?

18 A. No, I don't believe so.

19 Q. Do you know why messages of that nature were
20 to be rerouted to Laurie Brown, at least as of that
21 time?

22 MS. GANNETT: Objection.

23 A. No, I do not.

24 MS. GANNETT: Calls for speculation.

25 A. No, I don't.

EXHIBIT L

Laurie Brown

June 27, 2011

Page 1

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SEATTLE MIDEAST AWARENESS	)	No.
CAMPAIGN, a Washington	)	2:11-cv-00094-RAJ
non-profit corporation,)	
Plaintiffs,)	
vs.)	
KING COUNTY, a municipal)	
corporation,)	
Defendants.)	

Deposition Upon Oral Examination Of
LAURIE BROWN

June 27, 2011
500 Fourth Avenue, Suite 900
Seattle, Washington

REPORTED BY: PEGGY FRITSCHY HAMILTON, RPR, CSR, CLR,
29906/No. 2704

1 about with what. I talked with Rhonda Berry at
2 different times, Gail Stone at different times, and
3 Dylan Ordoñez at different times, and I also talked
4 with The Executive at different times, but not about
5 arranging this meeting.

6 Q. The Executive, Dow Constantine?

7 A. Correct.

8 Q. In terms of arranging the meeting, though, in
9 terms of The Executive's Office and your contacts, was
10 it primarily Ms. Berry, Ms. Stone, and Mr. Ordoñez?

11 A. Yes. I would say it was primarily Ms. Berry.

12 Q. And you passed on the request to have Seattle
13 Police Department or King County Sheriff's personnel
14 present at that meeting?

15 A. Right.

16 Q. And you were later told that they would not
17 be showing?

18 A. Right.

19 Q. What were your contacts with the FBI?

20 A. I was given -- I was asked to be the conduit
21 for any emails that we received that appeared
22 threatening, were threatening, had any flavor of any
23 kind of threat of disruption of the transit service,
24 destruction of property, harm to individuals, and I
25 was asked to be the person who collected those from

1 both the County Council, The Executive's Office, and
2 our department, or anywhere else in the County, and
3 pass those along to the FBI.

4 Q. Who asked you to do that?

5 A. Rhonda Berry.

6 Q. Did you collect those emails?

7 A. I collected anything that anyone had to give
8 me.

9 Q. Ms. Brown, what was your role in the
10 collection process of these emails that you described?

11 A. Could you be more clear?

12 Q. I'll try to be. For example, were you tasked
13 with the job of finding the emails and making some
14 kind of an evaluation or assessment of whether they
15 qualified for what it is that you were supposed to
16 find, or were you just supposed to get them, or
17 something else?

18 A. If I could back up. We were receiving
19 thousands of emails, and a very large concern was that
20 we did not have time to read through them all. I
21 mean, I was getting them at the rate of one per 30
22 seconds. I think I was getting them at the rate of
23 however quickly my Blackberry could take one, so we
24 knew that there wasn't any way to look through all of
25 the emails. There was just physically even if we

1 stayed up 24 hours a day, there was physically no way
2 to read through them all, but the ones that we were
3 able to spot check or come across or threatening phone
4 calls that we received, so we for sure knew about
5 them, those were the ones that we were to pass along.

6 I wasn't to make any kind of assessment.
7 If a receptionist said to me this seemed threatening,
8 I would take it in. I mean, I think I would have used
9 my brain. If it was like Hello, good morning, how are
10 you, have a nice day, I would have probably not passed
11 that along, but if there was any possibility, I
12 figured that was for The Fusion Center, which is
13 ultimately where I was sending them, and that my
14 understanding of The Fusion Center was that that's a
15 center where Washington State Patrol, FBI, local
16 police agencies all kind of fuse together, so that
17 it's a team of people looking at potential security
18 risk from many different angles, so that's my
19 understanding of where I was ultimately sending them,
20 was not the FBI, but it was The Fusion Center.

21 Q. You said we were getting emails. Were you
22 getting the emails directly from members of the public
23 about the SeaMAC ad?

24 A. Yes, I was.

25 Q. At your email address for King County?

1 where I was trying to manage everything else related
2 to this week and this incident: building security,
3 labor relations issues, bus operators who said they
4 wouldn't drive the buses, planned demonstrations. I
5 was trying to manage all of that. There was no, there
6 was no system that I could say proudly that we set up
7 to be able to track everything and have it neatly in
8 columns threatening, nonthreatening, these are all
9 red, these are not red. We were all like reading them
10 as quickly as we could, given everything else that was
11 going on, but my understanding was that by midweek, we
12 had kind of lost confidence that we were going to be
13 able to read even half of them.

14 Q. Was anybody helping you in this process?

15 A. Oh, yes.

16 Q. Who was that?

17 A. Carri Brezonick and her group down there, and
18 I know that I personally assigned some people to help
19 her to read through the emails, so I don't know how
20 many people ultimately were looking at them, but her
21 group.

22 Q. Is the process of reviewing emails that are
23 coming from members of the public to King County a
24 task that normally you'd perform in your work as the
25 deputy director of the DOT?

EXHIBIT M

Dow Constantine

June 16, 2011

Page 1

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SEATTLE MIDEAST AWARENESS	)	No.
CAMPAIGN, a Washington	)	2:11-cv-00094-RAJ
non-profit corporation,)	
Plaintiffs,)	
vs.)	
KING COUNTY, a municipal)	
corporation,)	
Defendants.)	

Deposition Upon Oral Examination Of
DOW CONSTANTINE

June 16, 2011
401 Fifth Avenue, Floor 8
Seattle, Washington

REPORTED BY: PEGGY FRITSCHY HAMILTON, RPR, CSR, CLR,
29906/No. 2704

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1 Executive Constantine," and it's dated November 9,
2 2010. Was there a meeting where you were briefed on
3 the transit advertising?

4 A. Yes. I don't recognize this cover sheet.

5 Q. Yes, sir. It's probably most likely that the
6 cover sheet you saw looks a little bit different than
7 the one we are looking at today.

8 At that particular meeting in November,
9 2009, were there also discussions concerning the ad
10 that the Seattle Mideast Awareness Campaign was
11 proposing to be placed on Metro buses?

12 MR. KOLDE: Just caution the witness not
13 to divulge attorney-client communications, but please
14 testify about nonattorney-client communications.

15 A. Yes. I'm not certain of the date. This
16 cover page states November 9th, and that is
17 approximately correct, and yes, there were discussions
18 about a proposed ad from SeaMAC.

19 Q. I'm glad you brought that up. It would be a
20 lot easier for certainly me and probably both of us if
21 we could refer to the Seattle Mideast Awareness
22 Campaign as SeaMAC. All right?

23 A. Yes.

24 Q. If you take a look at the last page, using
25 that, I guess, as a prompt, do you recall that you

1 looked at the graphic for the proposed ad that was to
2 be placed on the Metro buses?

3 A. I do recall being shown a graphic, and I
4 don't recall the image here. I recall an image that
5 had a demolished building with a number of children
6 looking on. That's the image I remember. There may
7 have been multiple images presented.

8 Q. All right. Did it have the same text of the
9 ad that we're looking at here in Exhibit-141?

10 A. To the best of my recollection, it was the
11 same or similar text.

12 Q. Let me show you what has already been marked
13 in this case as Exhibit-121, and I apologize for the
14 somewhat poor quality of the photocopy.

15 A. Understood.

16 Q. Do you think that you could look at that and
17 tell whether that might be the ad that you were
18 referring to just a few moments ago?

19 A. That image in the ad looks more familiar to
20 me.

21 Q. All right. And then in terms of the text, I
22 think the text is the same in both 121 and 141; right?

23 A. Making allowances for the photocopy quality,
24 it appears to be the same words.

25 Q. All right. How many different pictures do

1 you think you looked at of the proposed SeaMAC ad at
2 the November meeting?

3 A. I do not recall whether there was a single or
4 multiple set of proposed ads presented at that
5 meeting.

6 Q. Maybe to help us out a little bit, there are
7 probably a lot of questions that we may ask about that
8 particular meeting.

9 A. Um-hum.

10 Q. I understand there were lawyers from the King
11 County Prosecuting Attorney's Office present. When I
12 ask questions about what was said and things of that
13 nature, please do not tell me what you said to the
14 lawyers or what the lawyers said to you, or what
15 others may have said to the attorneys.

16 A. Okay.

17 Q. We are more interested at the moment, quite
18 frankly, about what you were thinking and what you
19 were doing.

20 A. Um-hum.

21 Q. Did you review the text of the Metro Transit
22 advertising restrictions that are also part of
23 Exhibit-141 during that meeting?

24 A. I did.

25 Q. Do you know how that meeting came about to be

1 scheduled?

2 A. I'm not certain. I do know that Frank Abe,
3 my communications director, was there, and that Metro
4 Transit staff were there, and it's likely, then, that
5 Metro Transit staff had asked for a meeting with me
6 regarding these ads.

7 Q. Before the meeting started, did you know you
8 were going to be talking about this particular ad?

9 A. No, I don't remember knowing that ahead of
10 time.

11 Q. Were there ads from any other person or any
12 other entity besides SeaMAC that were discussed at
13 that meeting?

14 A. I don't think there were.

15 Q. Do you remember who was present?

16 A. As I've said before, I know that Frank Abe,
17 who's my communications director -- there's several
18 people who work on communications, but he was
19 certainly present. I believe that senior Metro staff
20 was present, but I am not certain which of the
21 collection of Metro staff were present. What I would
22 categorize as senior Metro staff would be Kevin
23 Desmond, the transit director, his deputy, Laurie
24 Brown, as well as their boss, Harold Taniguchi, who
25 runs the Department of Transportation. At least one

1 Q. Do you remember how long the meeting lasted?

2 A. No, I don't. Generally the longest meetings
3 I would have on any subject would be an hour, and
4 often I'm scheduled in half hour or shorter
5 increments.

6 Q. Maybe this is a good time to mention that if
7 you need to take a break at any time, we're likely to
8 be here for more than 60 minutes.

9 A. Okay.

10 Q. What was it that you were asked to do with
11 respect to the SeaMAC ad at this particular meeting?

12 A. I was informed that Metro Transit had
13 received this advertisement through this vendor; that
14 Metro had determined that the ad did not violate the
15 criteria outlined in the section 6 of the advertising
16 contract. They were concerned about it being
17 potentially highly controversial, and wanted to have
18 me as sort of the senior decision maker review it and
19 determine whether I believed that it would meet the
20 criteria, or not, and I agreed with their assessment
21 that the ad should run.

22 Q. Had you been asked to do that task with
23 respect to a proposed ad on a Metro bus before?

24 A. No.

25 Q. Had you expressed an interest in getting

1 about attorney-client privileged communications.

2 Please testify about any other communications.

3 A. It was presented to me, and I think it was
4 presented so that I might view it and draw my own
5 conclusion about whether it would be, 1, controversial
6 and offensive, and 2, furthermore, violative of the
7 policy that they presented to me, and I recognized
8 that it was potentially offensive to some of the
9 community, but I didn't feel that it rose to the level
10 of violating this policy, which would cause it to be
11 excluded from placement on the bus.

12 Q. Were there particular provisions of the
13 advertising policy that you were looking at in terms
14 of making your assessment of whether it should be
15 rejected or not under the policy?

16 A. Yes.

17 Q. If you could, would you tell us which of
18 those you did, please.

19 A. The overall section is 6.0, "Restrictions on
20 Advertising," and the specific subsection is 6.4D and
21 E. Those are the subsections to which I was directed
22 that day.

23 Q. Now, on Exhibit-141, those two subparagraphs
24 that you just mentioned, D and E, are circled. Do you
25 know who did that?

1 was brought to me was a decision to allow the ad to
2 run.

3 Q. All right. At some point during the meeting,
4 did you make the decision that the SeaMAC ad should be
5 allowed to run based on the criteria or restrictions
6 in the Metro advertising policy?

7 A. I concurred with the decision from Metro that
8 had been brought to me that the ad should run, and I
9 concurred based on my reading of this advertising
10 policy.

11 Q. Do you recall whether there was conversation
12 or discussion about the capability of Metro Transit to
13 respond to particular problems that might be
14 associated with running this ad?

15 A. I think you brought that up a second ago, and
16 I don't recall any discussion about that. That does
17 not mean that discussion didn't happen, but at this
18 point, I don't remember it happening.

19 Q. You retained your lawyer knowledge or
20 experience there. You have a law degree; is that
21 right?

22 A. Yes.

23 Q. From the University of Washington?

24 A. Yes.

25 Q. Were you in private practice?

1 A. Yes, in the early 1990s.

2 Q. Executive Constantine, just generally, what
3 type of law was your practice?

4 A. Real property, small business, some land use,
5 in that general contractual law area.

6 Q. Were you in a firm?

7 A. I was in a small firm by the name of
8 Constantine & Benis. We had at any point between
9 three and five attorneys.

10 Q. Are you still a member of the Washington
11 State Bar Association?

12 A. I am.

13 Q. What's your bar number?

14 A. 19377.

15 Q. That's a number people just generally don't
16 forget.

17 A. That's correct.

18 Q. All right. Let's go back to SeaMAC. So,
19 what happened as the meeting came to an end?

20 A. Well, the conclusion, and I can't say
21 specifically what the last thing in the meeting was
22 that was said, but the conclusion was I agreed with
23 Metro Transit that the ad should run, and people left.

24 Q. All right. Was there any dissent expressed?

25 A. I don't think there was dissent expressed. I

1 remember Frank Abe wanting me to spend enough time to
2 understand that there would be concern at least and
3 controversy in the community, but that was coming from
4 him not as a decision maker about this, but as a
5 person who was going to have to respond to any public
6 concern that was expressed.

7 Q. What type of concern did Mr. Abe identify,
8 potential concern?

9 A. I think he was generally bringing to my
10 attention that this ad would be offensive to some
11 members of the community.

12 Q. Which particular community or members?

13 A. Well, community meaning our greater King
14 County community, and specifically those who disagree
15 with either the message or the ad or image, or were
16 offended by the image of the demolished building and
17 children.

18 Q. Do you remember any discussion concerning the
19 First Amendment implications of the advertising policy
20 and proposed SeaMAC ad during that meeting?

21 MR. KOLDE: Object to the form of the
22 question, and caution the witness not to discuss
23 attorney-client communications. General discussion
24 between lay people, please testify about.

25 Q. I mean, you are a lawyer. You would not be

1 disqualified, I don't think.

2 A. In general, the Metro staff in bringing me up
3 to speed and introducing me to this policy made clear
4 their, I guess, belief that Metro had a, had an
5 obligation to accept advertising to an extent, but
6 that that obligation was limited, and that this policy
7 outlined the limitations, this language in section 6
8 outlined the limitations.

9 Q. Do you recall a discussion about other ads or
10 posters that had been placed on Metro buses in the
11 past that had provoked reaction from the public?

12 MR. KOLDE: Objection, asked and answered.

13 Go ahead. Answer again.

14 A. Yeah. Well, actually, I do recall at that
15 meeting that somebody raised the issue of the atheist
16 ads that were placed about, I guess, a year or two
17 before, and, you know, they pointed out that some
18 people objected to those, but that the ads ran anyway.

19 Q. Is this the ad where the slogan was something
20 to the effect, "Yes, Virginia, there is no God"?

21 A. Correct.

22 Q. All right. Was there any discussion about
23 the accuracy of the content of the proposed SeaMAC ad?

24 A. I don't remember there being discussion at
25 that meeting about whether the statements were true or

1 sections like that throughout the schedule, and I was
2 just wondering: Do you just block out the whole time
3 then, or what?

4 A. I think this was an attempt to try to keep
5 free the week before Christmas, which is usually a
6 slow time around King County government, so that the
7 Executive could get some time off. It didn't work out
8 that way.

9 Q. Yes, sir. Was it your intent, say, the week
10 before that you would have been taking time off during
11 the parts of your schedule that say "Do not schedule"?

12 A. Yes. I think the intent was that I would not
13 come into the office during that week unless needed.

14 (Exhibit-144 marked.)

15 Q. Executive Constantine, Exhibit-144 is an
16 email that came to you from Rochelle Ogershok on
17 December 17, 2010 at a little bit after five in the
18 afternoon. When you are done looking at it, let me
19 know, please.

20 A. Okay.

21 Q. Who is Ms. Ogershok?

22 A. I think she is a communications or
23 spokesperson for one of our departments.

24 Q. This email came to you --

25 A. Well, it came to

1 A. So, there were people who I know personally,
2 community leaders, et cetera, who attempted to contact
3 me through my front desk here generally, and, you
4 know, there are people who I would want to get back to
5 personally, but I was pretty much focused on the
6 internal discussions with the staff prior to making a
7 decision. I know I spoke with some community members,
8 but I think those were after the decision was made. I
9 can't be certain they were all after the decision was
10 made.

11 Q. Do you know who Howard Gale is?

12 A. If I'm remembering, he's the citizen who
13 asked to come in and meet with me, and I think it
14 was -- well, am I mixing him up with the guy who tried
15 to place the ad?

16 Q. Probably not.

17 A. Okay. There was one gentleman, this may have
18 been Howard Gale, who asked to come in and meet with
19 me after the decision was made not to run the ad, and
20 I did agree to meet with him in this office.

21 Q. All right.

22 A. He, as I recall, if this is the same guy, was
23 someone who wanted the ads to run.

24 Q. All right. Did you speak with Jenny Durkan
25 before you made the decision to not have the ads run?

1 A. I did.

2 Q. How did that come about?

3 A. Sometime after the course of that week, I
4 began trying to seek advice from law enforcement
5 officials about their recommendations as I was
6 becoming increasingly concerned due to the threats we
7 received, the potential for violence against our
8 system, disruption of our system, vandalism to our
9 system, and I do not know at this point how our
10 telephone conversation got set up, but I had a
11 telephone call, and Frank Abe of my staff listened in
12 on it with her, with Jenny's permission, and I asked
13 her as the U.S. Attorney for her analysis of that
14 situation, and any recommendations she might have.

15 Q. Do you remember when that was?

16 A. I think that was towards the end of this
17 process, so probably on the 22nd, which was Wednesday.

18 Q. Was it before you made the decision?

19 A. Yes.

20 Q. Had you spoken with Ms. Durkan before in your
21 position as the King County Executive?

22 A. I don't think on any business matters. She's
23 been a prominent citizen around town as long as I've
24 been involved in elected office, and so when I run
25 into her at a public event, for example, but I don't

1 Q. Executive Constantine, I couldn't help but
2 notice here in your office you have on your coffee
3 table a dictionary for U.S. Arabic legal terms.

4 A. Yeah.

5 Q. How come that's here of all the books that
6 one could have?

7 A. That was given to me by a visitor to the
8 office, and it may well have been the gentleman who
9 you mentioned earlier I invited into the office to
10 discuss this issue with me unsolicited.

11 Q. Was there any specific advice that Ms. Durkan
12 gave you during the call you had?

13 A. No. I think so far as I can recall, these
14 notes pretty well sum up what she said. She was not
15 willing to advise us as to whether or not to have the
16 ads run. She shared her opinion about the
17 vulnerability of transit systems and the, and the
18 concern about doing anything that would heighten the
19 vulnerability or likelihood that they would be
20 targets, and gave me the name of the contact at the
21 FBI, and requested that I send him any threatening
22 messages.

23 Q. Did Ms. Durkan share with you any information
24 that the U.S. Attorney's Office or the FBI or the
25 Department of Justice have about communications

1 request?

2 A. Yes.

3 Q. Tell us about the call please. What was
4 said?

5 A. Well, I asked her for her opinion as a law
6 enforcement officer of whether we should run the ads.
7 I believe that she was reasonably well informed of the
8 volume and character of the communications that were
9 being received by the County.

10 Q. How did you come to that view?

11 A. I think I asked her, and we discussed for a
12 while the decision that I needed to make about whether
13 I should persist in having the ads run, or whether I
14 should change course. She quite strongly recommended
15 as a law enforcement officer that -- well, she was
16 quite clear that she thought that the buses were very
17 vulnerable to attack, and that if she were in my
18 position, she would be concerned about the
19 communications that we were receiving and not run the
20 ads.

21 Q. Did she have any specific information that
22 she disclosed to you about her concerns about the
23 vulnerability of the buses?

24 A. I think she had the same basic information
25 about the threats that were being issued that I was

1 dealing with. She had in addition to that, her
2 experience of many years as a law enforcement officer
3 and as the sheriff of King County. She didn't say
4 anything more specific than that, other than buses are
5 very vulnerable. It's easy to attack them, something
6 as simple as throwing, I believe her words were rocks
7 or bricks.

8 Q. In fact, things like that happen on buses
9 frequently; right?

10 MR. KOLDE: Object to the form of the
11 question.

12 Go ahead and answer.

13 A. I don't think there's a lot of brick throwing
14 going on on our buses.

15 Q. Are you aware that there are situations that
16 occur with Metro buses where people are injured
17 because people are shot or attacked or accosted on the
18 buses?

19 MR. KOLDE: Object to the form of the
20 question, compound.

21 Go ahead and answer.

22 A. Certainly incidents happen on the buses, on
23 the sidewalks, on the streets everyday. They're not
24 necessarily related to bus advertising.

25 Q. And what specific information of threats to

1 you given any information about the details of a plan
2 that the operations side of Metro had developed if the
3 ads were going to be run on the 27th?

4 A. No. I was given to understand that they were
5 developing plans to deal with potential disruptions,
6 or attempts to disrupt bus service. The prospect, as
7 expressed by Mr. Bachtel, of drivers refusing to show
8 up because of concerns for their personal safety, I
9 did not have any specific information about any
10 contingency plans or the possibility of Metro being
11 able to make up for that refusal to come to work.

12 Q. You did not have any information on that?

13 A. No.

14 Q. We got a double negative there. Did you have
15 any information on that?

16 A. I didn't know what Metro's specific plans
17 were, other than it was expressed to me it would be a
18 problem if our drivers were unwilling to drive our
19 buses.

20 Q. All right. Were you given any information
21 about the routes that would be run?

22 A. No.

23 Q. Or which streets the buses would run in?

24 A. I was given general, the general idea that
25 the buses with the ads would be as all of our ads

1 placed all around the County, that it was not possible
2 to say that a particular ad would appear in a
3 particular neighborhood or on a particular route.

4 Q. Were you given any information about steps
5 Metro operations were intending to take to protect the
6 buses when they were not being driven but were in the
7 bus barns?

8 A. I don't remember any specific information.
9 Obviously the bus barn has security already, but I
10 know that Metro was making plans to the best of their
11 ability to protect their fleet against what seemed to
12 be fairly significant threats.

13 Q. Were you told that the people at Metro who
14 were working on this operation plan had come up with a
15 plan that they concluded with work?

16 MR. KOLDE: Objection, assumes facts not
17 in evidence.

18 Please answer.

19 A. No, I was not told that they had a plan that
20 they thought would work.

21 Q. Okay. In paragraph 14, there's some
22 information here about your discussion with
23 Ms. Durkan, and some of the language that you have
24 attributed to her is in quotes. Do you see that?

25 A. Um-hum.

EXHIBIT N

Michael L. DeCapua

June 21, 2011

Page 1

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SEATTLE MIDEAST AWARENESS	)	No.
CAMPAIGN, a Washington	)	2:11-cv-00094-RAJ
non-profit corporation,)	
Plaintiffs,)	
vs.)	
KING COUNTY, a municipal)	
corporation,)	
Defendants.)	

Deposition Upon Oral Examination Of
MICHAEL L. DeCAPUA

June 21, 2011
500 Fourth Avenue, Suite 900
Seattle, Washington

REPORTED BY: PEGGY FRITSCHY HAMILTON, RPR, CSR, CLR,
29906/No. 2704

1 Q. And so by following it, I mean, how does that
2 happen? Do you go to your computer, and that's one of
3 you favorites?

4 A. It's not a favorite. I check it
5 occasionally.

6 Q. What about Al Jazeera? Do you ever look at
7 that?

8 A. Occasionally.

9 Q. Are there any other Arabic or Middle Eastern
10 or Southeast Asian websites that you look at?

11 A. No.

12 (Exhibit-161 marked.)

13 Q. Mr. DeCapua, we're going to look at a few
14 documents. Most of them are emails. I can tell you
15 having to lay my own eyes on many of these, many of
16 the exhibits contain much of the same email traffic.
17 Because of the way it came to us, it looked like it
18 started in the same place and went in different
19 directions. Why don't you take a look at this one.
20 This is a good launching pad, Exhibit-161. It's a
21 four-page document, and when you are done, let me
22 know, please.

23 A. Okay.

24 Q. So, Exhibits-161, if we could go to the third
25 page to begin. There's an email from somebody named

1 Kim Goodrich that was sent to Kevin Desmond on
2 December 22, 2010 at 4:10 a.m., assuming that's the
3 correct information. Do you see that?

4 A. Yes, I do.

5 Q. You've seen this email before; is that right?

6 A. Yes.

7 Q. This email refers to the Al-Qassam Brigade.
8 That is the website you were referring to?

9 A. Yes.

10 Q. This email from Ms. Goodrich, or
11 Mr. Goodrich, came to you at some point; is that
12 right?

13 A. Yes.

14 Q. How did it get to you?

15 A. Mr. Desmond forwarded it to me on May 22nd,
16 at 7:29 a.m.

17 Q. You know that because on the second page of
18 the exhibit there's an email where he sent the
19 Goodrich email to you; right?

20 A. Yes.

21 Q. Do you believe that's accurate: December 22,
22 2010, 7:29 a.m.?

23 A. Yes.

24 Q. Had you ever heard of Al-Qassam before that?

25 A. Yes.

1 A. Not prior to the receipt of the December 22nd
2 email.

3 Q. So, when you wrote to Mr. Tisdale and
4 Mr. Spinden on the morning of December 22, you said
5 that "The Metro bus ad controversy has far outreached
6 the First Amendment issues." Do you see that?

7 A. I do.

8 Q. What's the tipping point for you on that one?
9 I mean, at what point is a controversy outreaching the
10 First Amendment?

11 MR. KOLDE: Objection, calls for a legal
12 conclusion, vague.

13 Go ahead and answer.

14 A. All of the discussions I had heard and the
15 KING 5 News story dealt with First Amendment issues.
16 There was no mention of a potential terrorist threat,
17 there was no mention of emails threatening service
18 disruption, there was no emails or phone calls
19 mentioning anything along those lines. What we are
20 looking at is strictly from a security standpoint.
21 There was the First Amendment issue, but now there's a
22 security issue, and the security issue in my mind was
23 a compilation of the totality of the things that we
24 were now looking at and where our visibility was
25 directed.

1 A. Right.

2 Q. Did Captain Mulligan ever respond to this
3 email to you?

4 MR. KOLDE: Objection, calls for
5 speculation.

6 Go ahead.

7 A. I don't recall if she did, or not.

8 Q. Did Sergeant Hurley respond to this email,
9 respond to you after he got this email?

10 A. Again, specifically I don't remember if they
11 responded to this email.

12 Q. Were there any other pieces of information
13 that you asked Metro Transit Police to forward to the
14 JTTF concerning the SeaMAC Metro bus ad issues of
15 December 2010?

16 A. Transit Police indicated to me that they had
17 forwarded the information that they had received from
18 other Metro sources to JTTF.

19 Q. Okay. Did you ask Metro Transit Police to
20 forward any specific information to the JTTF about the
21 SeaMAC Metro bus ad issues?

22 A. Other than this, no.

23 Q. Other than what we see here in Exhibit-163?

24 A. No.

25

1 particular event, no.

2 Q. Do you know what it is?

3 A. No, I don't.

4 Q. Have you ever visited it?

5 A. No.

6 Q. You passed Mr. Larm's email onto some folks
7 at your end with your email there at 6:05 p.m.; right?

8 A. Correct.

9 Q. Do you believe that this is the first time
10 that you passed Mr. Larm's email on as reflected here
11 in Exhibit-165?

12 A. Yes.

13 Q. Was there any follow-up by you after sending
14 this?

15 A. Yes.

16 Q. What was that?

17 A. On the last page of Exhibit-165, it indicates
18 that the State Fusion Center is working on a
19 situational assessment, and Seattle PD would like to
20 collaborate with Metro and other agencies, and my
21 response to Doug is yes, we are looking for a
22 situational assessment. Since the JTTF declined to
23 provide one, we went through The Fusion Center
24 requesting that situational assessment, and in that
25 same conversation, Mr. Larm indicated that there was a

1 great deal of concern amongst the Seattle Police
2 Department tactical teams and staff regarding where
3 buses with these ads would be physically running in
4 the street, and if they were going by the Jewish
5 Federation Center.

6 Q. Did SPD Intel do a strategic assessment?

7 A. We asked for a situational assessment. I
8 have never seen anything from a State Fusion Center,
9 and as I mentioned, JTTF declined to provide us one.

10 Q. I think earlier you said they refused, JTTF.
11 Okay. My question was strategic assessment. Did SPD
12 Intel provide a strategic assessment in connection
13 with the SeaMAC Metro bus ads?

14 MR. KOLDE: I believe that's misstating
15 his prior testimony. The terminology is situational
16 assessment.

17 MR. GRANT: I see an email that does say
18 situational assessment, and that's his -- he has his
19 answer there. Now I'm asking whether they did a
20 strategic assessment.

21 MR. KOLDE: Object to the form of the
22 question.

23 If you understand it, please answer.

24 A. I don't know what they did in terms of their
25 assessment internally. We would not necessarily see

1 that.

2 Q. Do you know if SPD did a situational
3 assessment?

4 A. Yes, they did.

5 Q. Did you see it?

6 A. No. That was the substance of the phone call
7 from Mr. Larm regarding the Jewish Federation Center
8 and the buses.

9 Q. Is that SPD intelligence thought it would be
10 a good idea to avoid the Jewish Center?

11 A. No -- well, again, I'm not going to
12 characterize what they said, because again, it was a
13 phone call. What I'm trying to get to is the fact
14 that SPD was concerned from a situational standpoint
15 with respect to where our buses were running.

16 Q. Okay.

17 A. How that fit into their assessment, I don't
18 know.

19 Q. Do you know if SPD was provided with
20 information about the operations part of the bus ad
21 campaign: which routes, which buses, which times?

22 A. Yes, they were.

23 Q. Were you part of the discussions leading up
24 to the development of that part of the Metro response?

25 A. No.

1 A. She drafted it.

2 Q. Yes, sir. Did she think it was a good plan?

3 MR. KOLDE: Objection, calls for
4 speculation about her state of mind.

5 Go ahead and answer.

6 A. I think you would have to ask her that
7 question. The rest of us thought it was a good plan.

8 Q. When you say the rest of it, who's that?

9 A. That would be myself, and subsequently
10 Mr. Harrington upon his return, the Seattle Police
11 Department, and other agencies that reviewed it.

12 Q. Can you tell us who they were?

13 A. TSA was one, FTA was another. This is the
14 plan we had to send forward with the transit security
15 grant request to reprogram the money, and this is also
16 the plan that Kevin stuck his head in the door to
17 remind me to encourage her to send to him.

18 Q. If we go to the first page, Exhibit-176, at
19 the top Mr. DeCapua, Kevin Desmond is sending you an
20 email, and it's just him to you, December 23, 2010 at
21 11:29 p.m. Do you see that?

22 A. Yes.

23 Q. And he's telling you that the ad will not be
24 posted, nor will any counter ads. Do you see that?

25 A. Right.

EXHIBIT O

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SEATTLE MIDEAST AWARENESS)
CAMPAIGN, a Washington non-profit)
corporation,)
 Plaintiff,)
vs.) No. 11-cv-00094-RAJ
KING COUNTY, a municipal)
corporation,)
 Defendant.)

30(b)(6) Deposition Upon Oral Examination of
KEVIN DESMOND

500 Fourth Avenue
Ninth Floor
Seattle, Washington

DATE: May 12, 2011

REPORTED BY: Christina Atencio, CCR #2749

1 MR. GRANT: Indeed.

2 A. If I leave something out, if I inadvertently omit
3 something that's not on the formal org chart, that can be
4 accessed elsewhere. I'm perfectly happy to draw my org
5 chart.

6 Q. Okay. Well, let's do that.

7 A. It's an odd request, anyway. Okay. GM means me.

8 Q. I can tell you that artwork relative to distance of
9 the lines, those kinds of things, are not important. We're
10 mostly trying to see visually how everybody fits in with
11 each other.

12 A. I mean I'm going to leave some things out because I
13 can't necessarily do this fully by memory.

14 Q. All right.

15 A. So I'm the general manager of King County Metro
16 Transit. King County Metro Transit is a division of the
17 King County Department of Transportation, which is a
18 multi-modal organization consisting of transit roads,
19 airport, marine and fleet. I report to the King County
20 Department of Transportation director, Harold Taniguchi, who
21 reports through to the King County Executive's office.

22 In my job I have numerous direct reports who
23 represent the various different operating sections of the
24 agency. I also have a deputy general manager who has
25 numerous sections reporting to him. So the organization

1 from a formal reporting status is split that way. So this
2 would be operations, vehicle maintenance, power and
3 facilities.

4 Q. I'm sorry.

5 A. Sales and customers.

6 Q. I'm sorry. What was the third one?

7 A. Operations, vehicle maintenance, power and
8 facilities, --

9 Q. Oh, okay. Thank you.

10 A. -- sales and customer services, paratransit, and
11 ride share operations. Under the deputy general manager is
12 security, which is the Metro Transit Police, safety,
13 administration and budget, service development, and design
14 and construction. And he also has the human resources,
15 which is on a dotted line to other people outside of our
16 organization. The human resources department; it's a major
17 operation. I'm probably -- oh, I have rail, rail
18 operations. And again I'm probably leaving something out,
19 so that's the basic org chart.

20 Q. It sounds like what you're saying, it's at least
21 this. There's a couple --

22 A. It's at least.

23 Q. Can we go with that?

24 A. Yes.

25 MR. GRANT: Let's have this marked.

1 (Exhibit 23 marked.)

2 Q. It's been marked as Exhibit 23. You said Harold
3 Taniguchi is the current director?

4 A. Yes.

5 Q. You are the general manager and were in 2010; is
6 that correct?

7 A. That's correct.

8 Q. Who is the current deputy general manager?

9 A. Jim Jacobson.

10 Q. Who was in that position --

11 A. Same person.

12 Q. -- in 2010? All right. So the boxes that are under
13 the deputy general manager included Metro Transit; is that
14 right?

15 A. Included what?

16 Q. Metro Transit Police?

17 A. Yes.

18 Q. So that function reports directly to the deputy
19 general manager, if I understand Exhibit 22?

20 A. The contracted organization of the Metro Transit
21 Police report to the deputy general manager. There's also a
22 reporting responsibility through the sheriff's office. So
23 we have a contract through the sheriff for the provision of
24 Metro Transit Police services. They're all sheriff
25 deputies. So they are employees of the sheriff organization

1 but as a contract operation they are responsive to us. We
2 set their program. But again it's a complicated
3 relationship because they work for the sheriff and they
4 operate under the policies and procedures and the general
5 oversight of the sheriff.

6 Q. Who does Metro Transit Police report to on Exhibit
7 23?

8 A. The deputy general manager.

9 Q. And is it through the Metro --

10 A. It's security.

11 Q. Security, all right.

12 A. Secretary is Metro Transit Police. It's primarily
13 Metro Transit Police. It's not solely Metro Transit Police.

14 Q. And in 2010 who was the person in charge of the
15 security box on Exhibit 23?

16 A. Major Dave Jutilla.

17 Q. And is Major Jutilla a Department of Transportation
18 employee or sheriff?

19 A. He's an employee of the sheriff.

20 Q. Okay.

21 A. He's a uniformed officer of the sheriff's department
22 as a major.

23 Q. What about advertising? What's the box that the
24 advertising policy for Metro Transit fits in?

25 A. The advertising --

1 MS. RITCHIE: Counsel, if I could just interrupt for
2 a minute. You're referring to Exhibit 23 when you're
3 talking about the different boxes, correct?

4 MR. GRANT: Absolutely.

5 A. The advertising function is under sales and customer
6 services. And the group that the advertising function
7 reports to is the marketing group. So the advertising --
8 the person -- the project manager in charge of the
9 advertising contract reports up through the supervisor of
10 marketing who reports to the manager of sales and customer
11 services.

12 Q. In 2010 who was in charge of the box that is sales?

13 A. Darwin Campbell is the manager of sales and customer
14 service.

15 Q. And back in 2010?

16 A. Correct.

17 Q. And the box just below her?

18 A. Just above her is Bob Virkelyst, the supervisor of
19 marketing.

20 Q. And then advertising?

21 A. Sharron Shinbo.

22 Q. Are these three people Department of Transportation
23 employees?

24 A. Yes.

25 Q. What in 2010 was King County's practice for a review

EXHIBIT P

Kevin Desmond

May 31, 2011

Page 1

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SEATTLE MIDEAST AWARENESS	)	No.
CAMPAIGN, a Washington	)	2:11-cv-00094-RAJ
non-profit corporation,)	
Plaintiffs,)	
vs.)	
KING COUNTY, a municipal)	
corporation,)	
Defendants.)	

Deposition Upon Oral Examination Of
KEVIN DESMOND

May 31, 2011
500 Fourth Avenue, Floor 9
Seattle, Washington

REPORTED BY: PEGGY FRITSCHY HAMILTON, RPR, CSR, CLR,
29906/No. 2704

1 display on a King County Metro bus?

2 MS. RITCHIE: Objection, it's a compound
3 question.

4 A. In connection with consultations with
5 Ms. Shinbo and the PAO, yes, I did.

6 Q. PAO, that's the prosecuting attorney's
7 office?

8 A. Yes.

9 Q. That would include Mr. Ramels and
10 Ms. Carlson?

11 A. Yes.

12 Q. Were there other King County prosecuting
13 attorneys that were involved in the decision or
14 leading up to the decision in November 2010 concerning
15 the SeaMAC ad and the advertising policy?

16 MS. RITCHIE: And I'll object with respect
17 to whether or not this question seeks to obtain
18 information that's protected by the attorney-client
19 privilege, and again, caution the witness.

20 Q. Right now were there --

21 A. Not to my knowledge.

22 Q. All right. Let's go back to the earlier
23 question. Had you yourself come to a conclusion about
24 whether the SeaMAC ad qualified for display based on
25 the King County advertising policy before the

1 Executive did?

2 A. Yes.

3 Q. What was your opinion?

4 A. That the advertising, that the copy submitted
5 met our policy guidelines.

6 Q. Was it disqualified by any of the
7 restrictions in your view?

8 MS. RITCHIE: Objection, for purposes of
9 timing. What timeframe are you talking about?

10 Q. The same timeframe: Before it was submitted
11 to the Executive in November 2010.

12 A. At that time -- please repeat your question.

13 Q. Yes, sir. Were there any restrictions that
14 disqualified the SeaMAC ad from being displayed on
15 King County buses when you looked at it before it was
16 submitted to the Executive in November 2010?

17 A. At that time, no.

18 Q. Other than attorneys, Mr. Desmond, were there
19 other King County employees who had reviewed the
20 SeaMAC ad and compared it to the King County
21 advertising policy before it was submitted to the
22 Executive in November 2010?

23 MS. RITCHIE: Objection, calls for
24 speculation.

25 But go ahead and answer, if you can.

1 what she thought about it, what she would do with it,
2 what I thought about it, what I thought we should do
3 about it, and she moved on and I moved on.

4 Q. What did she think should be done?

5 A. I do not recall specifically the conversation
6 that Captain Mulligan and I had and what she suggested
7 she would be doing and what I instructed her to do.
8 She was the acting police chief that week, so I would
9 have expected her to follow-up as appropriate with
10 Metro Transit Police and to begin to make various
11 different inquiries with our law enforcement friends.

12 Q. You said she was the acting police chief.
13 You mean for Metro Transit Police?

14 A. Yes, because Major Jutilla, I believe, was on
15 vacation, so Captain Mulligan was acting on his
16 behalf, yes.

17 (Reporter read back as requested
18 the last answer.)

19 Q. Do you remember what any of those steps were
20 about the photographs?

21 A. I do not recall the specifics at this time.

22 Q. Did you ever talk to Harold Taniguchi about
23 the photocopies of the pictures that Lisa Mulligan
24 showed you?

25 A. Not at that time. Harold was on vacation.

1 December 20, say, at 8:30 in the morning, just about
2 the time you walk into the staff meeting before you
3 learn about the public comments about the SeaMAC ad,
4 do you know what the structure was at Metro to handle
5 incoming comments concerning a particular ad?

6 A. Well, there's not a specific structure for
7 incoming ads. There's a particular structure for
8 incoming public inquiries.

9 Q. That's what I'm asking about. Right. So,
10 what was the structure for comment coming in about an
11 ad that either was going to be displayed on a bus or
12 was already being displayed?

13 A. As I said, there's not a structure specific
14 to an ad. There's a structure for public comment, so
15 the normal course of events for public comment, public
16 complaints is that it ultimately goes to Carri
17 Brezonick. She is in charge of the group within Metro
18 that receives email comments, the customer comments'
19 site on our website. She's in charge of the people
20 who receive telephone calls, who receive the
21 complaints from our complaint line.

22 When other people within the organization,
23 such as me or the director 's office, for example, or
24 the Executive's office receive complaints and comments
25 from the public, they would normally route them either

1 via me or directly to Ms. Brezonick for handling, and
2 she has a system in place for how to respond to the
3 types of -- you know, the multiplicity of types of
4 things that we got.

5 Q. You mentioned earlier that leading up to the
6 briefing with the Executive in November 2010 that you
7 had recognized that the SeaMAC ad was controversial;
8 right?

9 A. Potentially controversial, yes.

10 Q. And Metro had approved and displayed ads that
11 were controversial in the past; right?

12 A. Right.

13 Q. Was there any advanced planning in connection
14 with the SeaMAC ad in terms of bus routing or which
15 buses the ad would go on given that?

16 A. No.

17 Q. Do you know if that had ever occurred with
18 any earlier ads?

19 A. To my knowledge, no.

20 Q. Is that something that you would know about?

21 A. In my tenure at Metro, I would have known
22 about, yes.

23 Q. Okay. Tenure as general manager?

24 A. Yes.

25 Q. Did you get information from The Executive's

1 awareness.

2 Q. Who were you working with, Mr. Desmond, to
3 try to figure out how many communications everybody
4 was talking about?

5 A. Well, primarily Ms. Brezonick, because she is
6 the focal point, but there was more than that.
7 Ms. Thielke, as you know, received a lot of
8 communications, Laurie Brown received a lot of
9 communications. It was too early to, I think,
10 understand the volume of communications coming from
11 out -- or being received outside of our organization.
12 We just knew that it was a lot.

13 Q. Was there an effort to try to get people at
14 King County who were getting outside communications to
15 funnel them to one particular source?

16 A. When? At what point in time?

17 Q. On Monday, December 20.

18 A. I believe during the course of the day as we
19 were understanding the information was coming from all
20 over the place, there were discussions to figure out
21 how to in effect create a sort of a central
22 clearinghouse for all the information. Again, that
23 would have been Ms. Brezonick. That was her
24 responsibility in the organization. I do not believe
25 we were attempting to do that from the outside of the

1 to collect the enormity, you know, the totality of
2 everything that was coming in from all over the place.
3 I mean, City Council members were getting this stuff,
4 too.

5 Q. City of Seattle?

6 A. City of Seattle. Different government, so
7 that was not my focal point, per se. I was overseeing
8 all of this. I knew that we were collecting this
9 information, but the specifics of when, who, and how,
10 you'd have to ask other people.

11 Q. Would that include Ms. Brezonick?

12 A. Yes.

13 Q. Are you aware of anybody else within Metro
14 that was doing the same type of task besides
15 Ms. Brezonick?

16 A. The same type of task, what type of task do
17 you mean?

18 Q. We're talking about gathering the
19 communications, emails and phone calls, that were
20 coming in to the County about the SeaMAC ad, and
21 trying to figure out how many there were and what
22 their content was.

23 A. Gathering and assessing the content, I
24 believe Carri was in charge of that. She was at that
25 point, I believe, put in charge with that. That

1 A. What we had seen as a result of the KING 5
2 story, and that the flurry of emails over the weekend
3 was being generated by one or more pro-Jewish or
4 pro-Israeli websites that were being broadcast
5 throughout the United States and internationally, as a
6 matter of fact, and as a result a lot of people who
7 subscribe to those websites were writing to us.

8 Q. And what did that mean to you in terms of
9 your assessment of the situation?

10 A. I just wanted to make sure that people who at
11 that point in time, which was middle of the day on the
12 first day of the crisis, understood that a lot of the
13 complaints were coming from out of state, out of our
14 region. A lot of them were coming from King County.

15 Q. But is there any particular significance that
16 they were from out of state?

17 A. Other than what I just said, no.

18 Q. The fact that they were coming from out of
19 state, did that have any impact on your evaluation of
20 what best to do about local interest or opinions?

21 A. At that point in time, we were five hours
22 into a mounting crisis situation, so that was an
23 observation that I had in the context of probably
24 other dialogue that we were having with a variety of
25 different folks.

1 (Reporter read back as requested the
2 question that was pending.)

3 A. Yes.

4 Q. Do you remember how many of those you saw
5 during the week of December 20?

6 A. I saw a lot of them, because I got the emails
7 this time. This time my name somehow got associated
8 with the campaign to issue those emails, so I got
9 quite a few of these directly, all of which I sent to
10 Carri Brezonick.

11 Q. Did you consider the communications
12 protesting the display of the ad to be some sort of a
13 campaign?

14 A. To a degree, yes.

15 Q. And what do you mean?

16 A. Well, as I said, as a result of the KING 5
17 story, the fact that we got so many emails from so
18 many different places around the globe so quickly, and
19 as I recall there was other evidence of where that
20 came from, that it was either one or more pro-Israeli,
21 pro-Jewish websites that picked up the KING 5 story,
22 sent that out to subscribers or people who otherwise
23 read those websites, and as a result of, we got
24 inundated with complaints.

25 Q. Were you aware of any effort that King County

1 engaged in to try to work backwards and figure out who
2 was behind that campaign?

3 A. No.

4 (Exhibit-71 marked.)

5 Q. Have you looked at Exhibit-71?

6 A. Yes.

7 Q. Who is Detective Hoyle?

8 A. I don't know. I don't recall what this was
9 in reference to.

10 Q. Do you remember speaking with Lisa Mulligan
11 about him on December 20, 2010?

12 A. I do not recall this exchange or Detective
13 Hoyle. Captain Mulligan would have to refresh my
14 memory.

15 Q. Okay.

16 (Exhibit-72 marked.)

17 Q. Exhibit-72, I think, begins with an email
18 that came to you from somebody by the name of Kim
19 Goodrich; right?

20 A. Apparently so, yes.

21 Q. Do you know who Kim Goodrich is?

22 A. No.

23 Q. Did you read this email when it came to you?

24 A. Probably.

25 Q. At the time this came in, Mr. Desmond, had

1 Sharron was to refresh my memory on when and how she
2 brought these ads to my attention and how we addressed
3 them.

4 Q. Okay. When you say how you addressed them,
5 you mean how you reviewed them with Ms. Shinbo?

6 A. Sharron and I reviewed -- took a look at
7 these ads, and when I looked at the ads, the creatives
8 for both ads, my response very quickly was these would
9 violate our policy, and we wouldn't post these ads
10 under any circumstance.

11 Q. Why did you say we wouldn't post them under
12 any circumstance?

13 A. The ad copy itself was extremely incendiary.
14 The images on the ads and the language is not
15 something that would comport with the guidelines, in
16 my estimation.

17 MR. GRANT: Are you talking about
18 Exhibit-75 and 76?

19 A. Yes, sir.

20 MR. GRANT: Thank you.

21 Q. As well as the ad that was not given to you
22 today, the third one that you recall, is it the same,
23 the same reason?

24 A. I would have to look at the other ad.

25 Q. We'll go with 75 and 76 today.

EXHIBIT Q

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SEATTLE MIDEAST AWARENESS	)	No.
CAMPAIGN, a Washington	)	2:11-cv-00094-RAJ
non-profit corporation,)	
Plaintiffs,)	
vs.)	
KING COUNTY, a municipal)	
corporation,)	
Defendants.)	

30(b)(6) Deposition Upon Oral Examination of:

KING COUNTY

DESIGNEE: CAPTAIN LISA MULLIGAN

May 10, 2011

500 Fourth Avenue, Floor 9

Seattle, Washington

REPORTED BY: PEGGY FRITSCHY HAMILTON, RPR, CSR, CLR,
29906/No. 2704

1 operations part of the house, who are the two direct
2 reports there?

3 A. Patrol and what's written out is BEES. It's
4 and acronym for bicycle enforcement and emphasis
5 squad.

6 Q. All right. Thank you.

7 During the November, December 2010,
8 January 2011 timeframe, where did you fit on this
9 organizational chart?

10 A. I was the administrative captain.

11 Q. Who was the operations captain?

12 A. Captain Bob Baxter.

13 Q. Who was the major?

14 A. Major Dave Jutilla, J-U-T-I-L-L-A.

15 Q. Who were the direct reports to you during
16 that period of time?

17 A. During the month of --

18 Q. Well, when I say the period of time, I'm
19 referring to November and December of 2010 and January
20 of 2011.

21 MR. KOLDE: Counsel, part of the issue is
22 that particular week that this happened, Captain
23 Mulligan was the acting major, so just that's why
24 she's asking for clarification.

25 MR. GRANT: All right.

1 Q. That helps, because I didn't know that.

2 MR. KOLDE: That's why she's here today.

3 Q. And that particular week would be roughly
4 December 17th, to December 23?

5 A. The week of the 20th through the 25th I was
6 acting major.

7 Q. Where was Major Jutilla during that period of
8 time?

9 A. Specifically?

10 Q. I think just in terms of a designation within
11 his employment would be fine.

12 A. Vacation.

13 Q. Very well. I don't think we need to know or
14 he wants to share where that may have been. He was on
15 a vacation.

16 A. Yes.

17 Q. And the policy is that somebody at the
18 captain level would fill in for that position during
19 that period of time, and you did it?

20 A. I did.

21 Q. Had you ever served in that capacity before
22 that particular time?

23 A. Yes.

24 Q. Who were the people that were reporting to
25 you during -- when you were serving as the acting

EXHIBIT R

Captain Lisa Mulligan

June 9, 2011

Page 1

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SEATTLE MIDEAST AWARENESS)
CAMPAIGN, a Washington non-profit)
corporation,)
 Plaintiff,)
vs.) No. 11-cv-00094-RAJ
KING COUNTY, a municipal)
corporation,)
 Defendant.)

Deposition Upon Oral Examination of
CAPTAIN LISA MULLIGAN

500 Fourth Avenue
Ninth Floor
Seattle, Washington

DATE: June 9, 2011

REPORTED BY: Christina Atencio, CCR #2749

SEATTLE DEPOSITION REPORTERS, LLC
(206) 622-6661 * (800) 657-1110

www.seadep.com

FAX: (206) 622-6236

1 Q. I'm just trying to make sure I get the terminology
2 right.

3 A. Well, that's not a technical term either. You're
4 asking what I would call it. That's what I would call it.
5 It's our day-to-day operating function so...

6 Q. All right. I mean the day-to-day operating function
7 of the MTP is to make sure that the buses are as safe as
8 possible for the drivers and the passengers, right?

9 A. Yes, among other things, yes.

10 Q. What other things are there?

11 A. Well, employees. Maybe I didn't hear you say that.

12 Q. I didn't say that. So employees?

13 A. General safety, education.

14 Q. Could I stop you at employees for a moment?

15 A. Sure.

16 Q. Which employees? King County?

17 A. Metro Transit employees.

18 Q. What are the functions that Metro Transit Police
19 provide to employees of Metro?

20 A. The same that we provide for the public. You know,
21 when we're keeping the public safe, there's a good chance
22 we're keeping the employees safe and vice versa.

23 Q. Other than drivers, what -- bus drivers -- what type
24 of Metro employees would Metro Transit Police be serving?

25 A. We see ourselves as serving all of them; so base

1 A. Yes.

2 Q. And how did -- what was the division?

3 A. The first week, this January 20th through 25th I was
4 acting; and then the following week when I was on vacation,
5 Captain Baxter was acting major.

6 Q. Okay. Were the two of you serving as acting major
7 at the same time?

8 A. No.

9 Q. Were you scheduled to be on vacation sometime during
10 the week of December 20?

11 A. No.

12 Q. Were you scheduled to be on vacation the following
13 week?

14 A. Yes.

15 Q. So the week of December 27?

16 A. Yes.

17 Q. Did you go on your vacation?

18 A. I did.

19 Q. Well done. What is it that Major Jutilla told you
20 about the SeaMAC ad when he said that he had been aware of
21 it before the news story?

22 A. Oh, no recollection about specifics. I just know he
23 was aware. It had been discussed at a meeting at some point
24 and he was aware of it. I have no recollection of anything
25 specific.

1 A. It does.

2 Q. Was that kind of the situation here?

3 A. Yes, but not -- yes.

4 Q. Were you on duty either Saturday the 18th or Sunday
5 the 19th of December?

6 A. No.

7 Q. Were you on duty December 20?

8 A. Yes.

9 Q. The Monday. Did you have discussions with anybody
10 about the news story after you saw it on television but
11 before you showed up to work on December 20?

12 A. My husband.

13 Q. Okay. Let's not talk about that.

14 A. Okay.

15 Q. Did you have contact with anybody at MTP concerning
16 the news story, the SeaMAC ad, after you saw it on
17 television but before you showed up to work on Monday,
18 December 20?

19 A. No.

20 Q. What's the next thing you remember about what you
21 were doing or how you came to be aware of the SeaMAC ad and
22 the issues surrounding that. You saw it on TV. What was
23 the next thing?

24 A. One of our sergeants called for a meeting to give me
25 copies of -- a couple of photographs that had been found

1 over the weekend to be sure I had them and to be sure that I
2 -- if I felt it was appropriate, pass them along to Metro
3 employees.

4 Q. Was this Sergeant Lockhart?

5 A. No.

6 Q. Who was it?

7 A. It was Sergeant Rick Connelly.

8 Q. Did you see the photos that day or copies of the
9 photos?

10 A. Yes.

11 Q. Did Sergeant Connelly show them to you?

12 A. Yes.

13 Q. Is that the first time you saw those?

14 A. In this context, yes.

15 Q. Have you seen them in other contexts?

16 A. There is one photograph that's pretty highly
17 publicized I have seen before in different situations,
18 settings.

19 Q. Tell me about that, please.

20 A. It's a photograph of a double-decker bus. I believe
21 it's in London. It's been blown apart on a city street.

22 Q. And in what context had you seen that picture
23 before?

24 A. I believe I've seen it in the news. I think I've
25 seen it in training environments. I think it's pretty

1 widely publicized -- and maybe not the exact picture but
2 that scene.

3 Q. Do you remember if there was any message that came
4 with the pictures?

5 A. There was a message that was written on -- the same
6 message written on all three pictures.

7 Q. Which was what?

8 A. From memory, two names, Taniguchi and Desmond --

9 Q. These are Metro employees?

10 A. Kevin Desmond is the general manager of Metro, and
11 Harold Taniguchi is the elected official in the Department
12 of Transportation, as I understand it anyway. So the
13 question again was...

14 Q. Did you see any other writing besides their names?

15 A. Yes. Something it was around no to -- language in
16 quotes -- no to Muslim bus ads -- or, yeah -- no to
17 anti-Muslim bus ads or something along those lines. I would
18 have to see them to refresh my memory.

19 Q. Do you remember anything else that was on this?

20 A. On any of them or just -- any written language?

21 Q. Yes, ma'am.

22 A. No, not that I remember.

23 Q. There was the picture, whatever those showed,
24 whatever the picture displayed and then there was some
25 handwriting.

1 A. Right.

2 Q. Do you remember anything else?

3 A. Besides the name and phrase and the phrase that I'm
4 kind of blotching, no, I don't remember anything else.

5 Q. What did Sergeant Connelly say when he showed these
6 to you?

7 A. He said I figured you would probably want to see
8 this before your general manager's meeting and basically
9 told me where they were found and just kind of summarized
10 the incident for me.

11 Q. What did he say?

12 A. He said they had been left under the door under the
13 customer sales office down by King Street over the weekend
14 sometime. They were found by a security guard. And he told
15 me that Deputy Lockhart had taken a report. We talked about
16 getting the originals fingerprinted, placed into evidence,
17 and that was about it.

18 Q. Did that happen? Did the papers get fingerprinted?

19 A. The originals went into evidence to be
20 fingerprinted.

21 Q. Do you know if they were fingerprinted?

22 A. I don't know.

23 Q. Who would know that?

24 A. Who would know that right now?

25 Q. Who would know if they were ever fingerprinted?

1 words to the effect I approve of the plan that you've come
2 up with?

3 A. It meant to me move forward and make it happen.

4 Q. Did you understand it to mean that he thought that
5 this is a plan that would work given all the information
6 people were dealing with?

7 MR. KOLDE: Objection, calls for speculation, vague.
8 Go ahead and answer.

9 A. He and I had actually had a discussion at one point
10 during, I believe, the meeting where I made it clear to
11 everyone that whatever we did wasn't going to ensure
12 anyone's safety. So I don't know if that answers your
13 question. But for me I knew going into it that he approved
14 of this plan, and I don't think any of us had any
15 expectation that it was going to be a sure plan. No plans
16 are ever so...

17 Q. And I certainly didn't mean to imply that that's
18 what the standard was. Did you think this was the best plan
19 that Metro should come up with?

20 MR. KOLDE: Object to the form of the question. Go
21 ahead.

22 A. Can you clarify what you mean by the question, what
23 they should come up with?

24 Q. Right. I mean let's step back a second. You were
25 tasked by Mr. Desmond to come up with a deployment plan,

1 right?

2 A. Yes.

3 Q. And you went to a meeting that involved some of the
4 Metro operational personnel with Mr. Desmond, right?

5 A. Yes.

6 Q. And then after that meeting, you met with your own
7 team, Sergeant Meyers, Sergeant Olmstead, Mr. Norton, and
8 had some input from Mr. Alidina?

9 A. Yes.

10 Q. And following that, you and your team crafted the
11 framework for the deployment plan that was sent to Mr.
12 Desmond on December 22, 2010 at 3:14 p.m.?

13 A. Yes.

14 Q. Did you think that was the best plan that was needed
15 based on the information that you had?

16 MR. KOLDE: Object to the form. Go ahead and
17 answer.

18 A. I felt that it was the best we could do with the
19 resources that we had.

20 Q. For example, it looks like you decided to not
21 recommend a high range MTP response; is that correct?

22 A. Yes.

23 Q. And is that because you felt it was not necessary
24 given the information that you were dealing with?

25 A. No.

1 Q. Why is it that you chose mid-range instead of high
2 range?

3 A. Because given what we knew, while I did feel it was
4 necessary for us to have a solid plan, I felt it had to also
5 be a reasonable plan and one that we could grow into
6 something bigger if we needed to. We didn't really know
7 what we were going to face. And my level of concern about
8 it didn't change the fact that we didn't know what we were
9 going to face. So my experience tells me that a middle plan
10 is typically the best place to start just because it can
11 grow if it has to.

12 Q. Or shrink?

13 A. Or shrink if it has to, absolutely. You bet.

14 Q. But underlying all this, isn't part of your decision
15 making to come up with the most effective plan you can given
16 what you know?

17 A. Yes.

18 Q. All right. Is that what you think you did with this
19 deployment plan that you sent to Mr. Desmond on December 22?

20 A. Yes.

21 Q. All right. I mean if you thought you needed a high
22 range MTP response plan, would you have recommended that?

23 MR. KOLDE: Object to the form of the question. Go
24 ahead and answer.

25 A. I really -- I think it actually is asking me to kind

1 of change what I knew. What I knew at the time, I felt like
2 we had built the most effective plan we possibly could given
3 what we had and what we knew. And if we could predict the
4 future, which we can't. In my business I stopped trying a
5 long time ago. So I guess I'm not really sure how to answer
6 that.

7 Q. Well, I think you did.

8 A. Okay.

9 Q. Thank you. So I would like to come back, I guess,
10 to what happened or what you were trying to communicate to
11 Mr. Desmond on December 23, 2010 at 3:20 when you sent him
12 back the deployment plan and then added the words "stand
13 down" or "continue". So I take it that when you were
14 writing to Mr. Desmond on Thursday, the 23rd at 3:20, you
15 knew by then that the bus ads would not be displayed; is
16 that right?

17 A. Yes.

18 Q. And based on that information, King County Metro
19 Transit Police deployment plan was changed by saying certain
20 things would not happen and we could tell what they are by
21 looking at what was labeled as "stand down"?

22 A. Yes.

23 Q. I'll take one example. Under the MTP category, we
24 have the word "stand down", which is what you were telling
25 him on Thursday. But what you were saying is as of

1 A. Because we had, through the planning process,
2 identified that the buses that would pull the ads would be
3 on routes that would go to the Burien Transit Center. And
4 we felt it was important to keep him and his law enforcement
5 agency aware of what might be coming their way.

6 Q. If I could come to your troops message at the
7 bottom, the message that had been sent to the Metro Transit
8 Police personnel on Monday, December 20, it looks like the
9 second to the last sentence, "Some of the calls had been
10 borderline threatening". Do you see that?

11 A. Yes.

12 Q. Were any of the calls that fell in that category
13 borderline threatening followed up by anybody at Metro
14 Transit Police?

15 A. Not that I'm aware of, no.

16 Q. Is that something that you would have been aware of
17 given your position as the acting major during that week, in
18 particular, with this issue?

19 A. I would love to think so, but I would say probably
20 not. I can't imagine that anybody followed up on any calls.

21 Q. All right. And could I get a sense of what you
22 would mean by followed up?

23 A. We didn't have any case reports that were being
24 actively investigated as a result of a phone call or a
25 message. We didn't have any of our staff actively trying to

1 identify people who were involved in leaving a message or
2 sending an e-mail. We didn't have any of that.

3 Q. If there had been that type of follow up, is that
4 something that would have been within the responsibility of
5 the Metro Transit Police?

6 A. Not necessarily.

7 Q. All right. Who else would have been involved in
8 this process of following up if there were say threatening
9 calls or e-mails?

10 A. FBI could be involved, any one of the detectives
11 from any of -- it would really depend upon where the call
12 came from, the origin point. So any number of agencies or
13 people could be involved in that.

14 Q. I'm not sure that it's important to get the complete
15 inventory of who it could have been as it would be to find
16 out the answer to this question. As far as you know, were
17 any of these borderline threatening calls that are
18 referenced in your e-mail to your troops that were sent out
19 on Monday, were any of those ever referred for follow up to
20 any of the potential law enforcement agencies that could
21 have been involved?

22 MR. KOLDE: Objection, calls for speculation. Go
23 ahead.

24 A. Not to my knowledge.

25 Q. Do you know if any threatening or potential

1 threatening or borderline threatening call or e-mail that
2 was received by King County was followed up on by law
3 enforcement?

4 MR. KOLDE: Object to the form of the question,
5 calls for speculation, vague. Go ahead.

6 A. I don't know.

7 Q. All right.

8 (Exhibits 101 and 102 marked.)

9 Q. We've handed you two documents at the same time.
10 Exhibit 101 is an e-mail that appears to have come from
11 William Hurley on Tuesday, December 23 at 3:34 a.m.

12 A. Okay.

13 Q. Regarding the winter holiday deployment plan, right?
14 Is that what you got there?

15 A. Yes.

16 Q. And then Exhibit 102 is titled Metro Transit Police
17 2010 Winter Holiday Deployment Plan.

18 A. Yes.

19 Q. Are you familiar with that document, Exhibit 102?

20 A. Yes.

21 Q. Did you have any role in writing Exhibit 102?

22 A. Did not.

23 Q. Is this -- that is, is Exhibit 102 -- is that the
24 deployment plan, the winter deployment plan, you have been
25 referring to earlier during your testimony today?

1 checked in on us and how we were doing, just checking the
2 status of things. And I don't remember when it came
3 specifically, but I remember that she did call at one point
4 just to check in to see how we were holding up.

5 Q. And you believe that that would have been after the
6 phone call that you talked about earlier and before the call
7 where you let her know that the decision had been made not
8 to display?

9 A. Yes.

10 Q. Do you believe there was more than one call during
11 those two times?

12 A. There may have been but I don't remember for sure.

13 Q. Did you ever have any direct meetings with the
14 sheriff about what you were doing in connection with the
15 SeaMAC issues?

16 A. One-on-one meetings together in the same room type
17 meetings?

18 Q. Well, in-person meetings, whether it was one on one
19 or not, but whether it was in person?

20 A. We did not.

21 Q. Within Metro Transit Police, were you the highest
22 command level person dealing directly with the Metro Transit
23 Police response to the issues surrounding the SeaMAC ad on
24 the buses?

25 A. Yes.

EXHIBIT S

Jim O'Rourke

May 6, 2011

Page 1

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SEATTLE MIDEAST AWARENESS	)	No.
CAMPAIGN, a Washington	)	2:11-cv-00094-RAJ
non-profit corporation,)	
Plaintiffs,)	
vs.)	
KING COUNTY, a municipal)	
corporation,)	
Defendants.)	

Deposition Upon Oral Examination of
JIM O'ROURKE

May 6, 2011
900 King County Admin. Bldg.
Seattle, Washington

REPORTED BY: PEGGY FRITSCHY HAMILTON, RPR, CSR, CLR,
29906/No. 2704

1 Q. Had you received any data in terms of an
2 assessment of the potential of disruption of service
3 of the Metro buses?

4 A. The data that I was relying on was the number
5 of customer contacts that we had received.

6 Q. The number of them?

7 A. Yes.

8 Q. Do you remember how many customer contacts
9 you are talking about?

10 A. I believe by Wednesday it was in excess of
11 2,000.

12 Q. Had you received any assessment that would be
13 more of a qualitative assessment of what those
14 contacts were about or what they were saying or things
15 of that nature?

16 A. I, of course, had the snippets from Carri on
17 Monday at the staff meeting, but I was most impressed
18 by the quantity as opposed to the specifics of the
19 contacts, because the quantity far outweighed the
20 quantities that we had received in the past.

21 Q. How did you learn that there had been about
22 2,000 contacts by Wednesday morning?

23 A. Carri was updating us as things went along.

24 Q. When you met with Mr. Desmond before your
25 staff meeting on Wednesday, was anybody else present?

1 Then I discussed the various reactions
2 that I had received at that point in time from various
3 folks; for instance, I had been copied on an email
4 from Paul Bachtel, the union president, expressing
5 from some union members that they didn't want the ads
6 to run, that it would make their job much more
7 difficult to have the ads on the buses, that in some
8 cases they were politically opposed to the ads, and in
9 some cases they were afraid to drive the buses, and I
10 discussed with the staff the plan in terms of what we
11 would do with transit operators; specifically whether
12 we would allow a transit operator to not drive the bus
13 if they simply politically disagreed with the ad, or
14 whether they had to express a safety concern.

15 Q. What's the policy?

16 A. We don't have a specific policy in that area,
17 but our practice has been that if somebody politically
18 disagrees with something, that they are required to
19 drive the coach anyway, but if they express a safety
20 concern, we'll evaluate them and potentially take them
21 off the route.

22 Q. How does that work, Mr. O'Rourke, to try to
23 evaluate the safety concern that's raised by an
24 operator?

25 A. Basically we have someone interview the

1 Q. Anything else that was discussed at your
2 staff meeting, you know, than that?

3 A. Concern from the other base supervisors and
4 the other section supervisors about what all would
5 have to be dealt with in a situation like this. This
6 was an unusual situation for us. We've dealt with
7 demonstrations before, we've dealt with threats
8 before, but in most of the cases in which we dealt
9 with demonstrations or threats, they were not threats
10 directly to us and they were not demonstrations about
11 us as an agency, and so it presented a little bit of
12 an unusual situation that we had to, if you will, deal
13 with on more of an ad hoc basis. It didn't fit neatly
14 in our plans.

15 Q. By the time you are having your staff meeting
16 on Wednesday, Mr. O'Rourke, what threats were there?

17 A. There were some threats implied in a number
18 of the emails.

19 Q. How many?

20 A. I don't know.

21 Q. I mean, was somebody looking at that?

22 A. Yes. Carri Brezonick.

23 Q. And what were the threats?

24 A. I do not know. It was simply generally
25 communicated to me that some of the emails were

1 threatening.

2 Q. Anything else that was discussed at your
3 staff meeting about this ad? So far I think what I
4 heard you say is there was the announcement that
5 Ryerson would be the base, the discussion about how to
6 interview or speak with any operators that may have
7 objected to operating a bus with that ad on it, and
8 then anything else besides that?

9 A. There was a little bit of discussion about
10 where the Executive was on running the ad, and I guess
11 I would say that the staff was generally dissatisfied
12 with his position that we should still be running the
13 ads, because the staff felt that this was a safety
14 issue and that it was going to cause us a considerable
15 amount of work and was going to be putting the
16 operators, if you will, in a position which was
17 unusual for them.

18 Q. Okay. And this happened to be the week of
19 Christmas?

20 A. Yes.

21 Q. All right. So, I take it that's part of the
22 concern of people in terms of trying to have to deal
23 with this?

24 A. Well, yes. Part of the concern was that
25 between my Wednesday morning staff meeting and Monday,

1 ideally is all buses on the 509 corridor, because we
2 have a lot of service out of Ryerson that goes down
3 SR509. That makes it likely that our police focus
4 could be in Burien and downtown, at both ends of where
5 that service goes, and that we can then take care of
6 whatever other arrangements need to be made to locate
7 the police or to reroute the service if necessary in
8 certain areas.

9 Then the other factor that came up was how
10 we are going to deal with the operators come Monday
11 morning, and I wanted a base chief to be present in
12 the base and to talk to every individual operator
13 before they went out, so that the same person made a
14 consistent judgment about whether it was a safety
15 issue for the operator, or they're simply refusing on
16 political grounds or whatever to drive the coach, and
17 I also wanted the chief to be there to assess the
18 operator, because normally that would be the job of
19 the base dispatcher, but I did not want to have that
20 set on top of what a base dispatcher normally has to
21 do to get service out of the base on a Monday morning.

22 Q. How many drivers are we talking about, say,
23 on the Monday morning would that have been?

24 A. I believe we were talking about 12 buses, so
25 that would have been 12 drivers on Monday morning, and

1 a different 12 drivers on Monday afternoon.

2 Q. All out of Ryerson?

3 A. Yes.

4 Q. When does the ATU become involved in this
5 process?

6 A. That's kind of a general question and
7 difficult to answer in that form.

8 Q. Well, was there any collaboration with the
9 union in terms of how Metro is going to work with its
10 drivers in this process of dealing with drivers who
11 might object to driving a bus with the ad on it?

12 A. So, as I said previously, there was
13 communication with Paul Bachtel after the plan was
14 developed to run out of Ryerson to run on the 509
15 corridor, et cetera. I called him up and I said,
16 Look, here's what we are going to do: If the driver
17 has a safety concern, they won't have to drive the
18 bus. We're going to have a chief on the base to
19 evaluate that safety concern. If the driver has a
20 political concern, that's not a valid reason for not
21 driving the bus. We are going to send them out there
22 anyway. I wanted to assure him that we had them at
23 that base for a reason, that we had police presence
24 out there to protect the drivers in case there was
25 some sort of incident or a demonstration that they had

1 we don't have enough service on that corridor to do 12
2 a.m. and 12 p.m. trips, what shall we do? And so they
3 presented me with a few alternatives, and one of the
4 alternatives included Magnolia, and I said okay to
5 Magnolia as an additional place that we would run the
6 coaches.

7 Q. Why Magnolia?

8 A. Once again, it was a decision based on the
9 amount of service that we had in that area, and from
10 my perspective on the location in Magnolia, it was
11 relatively close to downtown, and if we had police
12 resources located downtown, it wouldn't take them very
13 long to get out to Magnolia.

14 Q. Was there any consideration about the area or
15 neighborhood that the buses would be going through,
16 that a particular area might be more sensitive in
17 terms of its reaction to this particular message?

18 A. Yes. We had a concern because the buses were
19 going to go down Third Avenue past, I believe, it's
20 the Jewish Federation Building; at any rate, where
21 there was a shooting a number of years ago and
22 somebody was killed, and so we incorporated in the
23 plan of rerouting the buses around the block that
24 contained that building, so that they wouldn't be
25 passing directly in front of the building.

1 routes, the routes themselves, to avoid the Jewish
2 Federation facility on Third Avenue, the plan in place
3 to speak with or interview operators that may have had
4 a concern, coordinate with Metro Transit Police, and
5 the assignment of the buses in terms of their parking
6 at the base to make sure the right bus went on the
7 right route?

8 A. Yes. There's one other component that I
9 didn't mention. I'm sorry.

10 Q. That's quite all right. That's why we go
11 through this.

12 A. On Monday morning I authorized the addition
13 of four report operators. A report operator is a
14 person who sits in the base on the day of service and
15 gets assignment to a route, because another operator
16 cannot operate that route for whatever reason. So,
17 they call in sick or whatever happens on day of
18 service, a report operator handles that. If we know
19 about it a day ahead of time, the extra board handles
20 it, but the report operator is specifically for that
21 day.

22 What we did is we said we're going to put
23 four extra report operators on Monday morning, and if
24 it is the base chief's judgment that an operator has a
25 valid safety concern, we will have the report operator

1 take the route instead of the operator who is assigned
2 to the route. Presumably what we would do in this
3 situation based on past practices, we would pay the
4 operator anyway as if they had driven the route. We
5 would just relieve them of duty with pay.

6 Q. This is some type of a procedure that Metro
7 Transit has worked with before?

8 A. When we need extra operators to do a service,
9 we quite often add extra report operators to handle
10 the extra service. If we know that there's a
11 possibility of demand for service on a given day, but
12 we're not sure about it up until that day, then we may
13 add some report operators just to make sure that we
14 have enough bodies around to handle the service.

15 Q. Anything else that was in the contingency
16 plan?

17 A. I don't recall anything else.

18 Q. So, on Wednesday at the end of the day, the
19 end of the workday, you are getting a report from who
20 on the contingency plan?

21 A. Abdul Alidina.

22 Q. Were you satisfied that that was a plan that
23 would work?

24 A. Yes.

25 Q. I take it you have a lot of confidence in the

1 ability of King County Metro to run the bus system?

2 A. Yes.

3 Q. This isn't the first time you've run into
4 something where there was going to be a snag in the
5 operation; right?

6 A. That's correct.

7 Q. And I take it you've run into things that
8 were much more problematic than this?

9 A. Yeah. I guess extreme adverse weather
10 situations are certainly a lot more problematic.

11 Q. How about the WTO? Were you around when that
12 was going on?

13 A. I was. I was supervising Ryerson Base at
14 that point in time.

15 Q. And Ryerson Base was a location for the
16 operation that was affected by the WTO?

17 A. Right.

18 Q. Right. And you had to deal with that?

19 A. Yes.

20 Q. I take it pretty successfully?

21 A. Generally, yes.

22 Q. All right. I mean, were you expecting in
23 December of 2010 when the SeaMAC business was going
24 on, were you expecting anything like what the WTO was?

25 A. No, because it was a significantly more

1 Q. That's part of his job?

2 A. Yeah.

3 Q. I take it he does his job pretty well?

4 A. He does.

5 Q. You can rely on him?

6 A. Yes.

7 Q. And when you say to do something, he does it?

8 A. Yes.

9 Q. He came up with a pretty good plan in this
10 case, I take it?

11 A. Yes.

12 Q. So, what happened on Thursday from your end
13 in terms of the SeaMAC situation and Metro buses?
14 This would be December 22, Thursday -- December 23,
15 pardon me, Thursday, December 23.

16 A. That's a really good question. I wish I had
17 reviewed my calendar. I don't know if I was in the
18 office that day, or not. I may have been monitoring
19 email from home on that day, but I'm not sure.

20 Q. And do you normally take Thursdays off?

21 A. No. My daughter was in town for winter
22 vacation.

23 Q. Do you remember anything about what would
24 have happened on that particular day, that is,
25 Thursday, the 23rd, with the buses and the SeaMAC ad?

1 it, is a Metro Transit Police function; is that right?

2 A. Yes.

3 Q. At your end, it's just can we roll the buses
4 out and have drivers on it?

5 A. And where are they going to go, yeah.

6 Q. Okay. All right. Do you remember having any
7 discussions with Lisa Mulligan about the questions
8 that she was raising here: limiting the number of
9 days or the times or cameras? Things of that nature?

10 A. I did not directly have discussion with Lisa.
11 I believe Sharron had answers to some of these
12 questions, though.

13 Q. Sharron Shinbo?

14 A. Yes.

15 Q. Did the operations part of this ever consider
16 having the ads put on the buses for different days,
17 other than say at the time that they were scheduled to
18 go?

19 A. Not that I'm aware of. From the start of
20 this whole situation there seemed to be an assumption
21 that we were running the ads starting December 27th,
22 and I never questioned whether they could be moved to
23 another day or not for a start time.

24 Q. I mean, I'm asking partly because it looked
25 like part of the, from an operations' standpoint, part

EXHIBIT T

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SEATTLE MIDEAST AWARENESS)
CAMPAIGN, a Washington non-profit)
corporation,)
Plaintiff,)
vs.) No. 11-cv-00094-RAJ
KING COUNTY, a municipal)
corporation,)
Defendant.)

Deposition Upon Oral Examination of
PAMELA QUADROS

1191 Second Avenue
Eighteenth Floor
Seattle, Washington

REPORTED BY: Christina Atencio, CCR #2749

1 A. Well, so generally I mean once there is -- this is
2 the average.

3 Q. Yes, ma'am. And that's what I'm trying to find out.

4 A. This is the average process. The art process,
5 though there's still a component of that where it has to be
6 deemed applicable to the advertising restrictions and that
7 also takes place -- but we know this from the git-go from
8 the needs assessments. So all along the process we know how
9 that client is going to move through the process based upon
10 the advertiser restrictions.

11 So that happens all the time but it's not
12 necessarily always forefront or evident because it's not
13 relevant necessarily all the time. McDonald's doesn't have
14 to go through that. That's why I was telling you the actual
15 path an advertiser goes through.

16 Q. So during the needs assessment process, say if
17 someone -- say hypothetically -- if someone wanted to have
18 an ad on the side of a bus owned by Metro, so the Metro
19 advertising policy restrictions are in play, that would say
20 something like, come to our bar and drink as much alcohol as
21 you possibly can, the proposed advertiser would be told that
22 that message probably needs to be calibrated somewhat?

23 A. Yes.

24 Q. Okay. But for places like McDonald's, at least in
25 the United States, that's not a particular issue?

1 A. Not that I can think of.

2 Q. All right. Why don't we talk about the could be
3 controversial category? How does Titan know what that might
4 mean?

5 A. Well, we refer to the advertising restrictions.

6 Q. All right. But then how does Titan decide whether a
7 particular ad might be controversial?

8 A. If it's borderline, in the advertising restrictions.

9 Q. All right. Is the SeaMAC ad one that Titan had
10 deemed to be potentially controversial such that King County
11 should get a heads-up?

12 A. Yes.

13 Q. What was it about that ad that Titan made that
14 decision?

15 A. Because it was borderline.

16 Q. But I mean what was it about the ad that made it
17 borderline?

18 A. The content.

19 Q. All of it? Some of it?

20 A. All of it.

21 Q. I mean, for example, part of the -- I'm going to
22 show you this very helpful copy of the SeaMAC ad. It's been
23 marked as Exhibit 121 in some earlier deposition. Does this
24 look like to you what was the SeaMAC ad that was going to go
25 on the King County bus?

1 like that in terms of the content or the message?

2 A. No, you can't really do that.

3 Q. Yes, ma'am. The question in terms of too
4 controversial or might be controversial is one that's based
5 on the King County advertising policy, I guess is what I'm
6 trying to figure out; is that right?

7 A. Yes. I mean, yeah, we just know our partners.

8 Q. Did you have any discussions with your two
9 colleagues about the proposed SeaMAC ad before contacting
10 King County?

11 A. I can't recall the time line.

12 Q. Okay. Is there anything that sticks out -- well,
13 let's try this. Do you remember having discussions with
14 either of them really at any time before December 17th of
15 2010, which is the date of the King 5 News story?

16 A. Yes, we definitely brainstormed with the client to
17 tame the ad down.

18 Q. All right. When you say the client, which one;
19 SeaMAC or King County?

20 A. SeaMAC.

21 Q. What do you mean we brainstormed?

22 A. Well, again part of our sales process is being
23 consultants in trying to navigate meeting clients' needs on
24 that side as well as meeting the needs of our advertising
25 restrictions. So you start that process and you massage it

1 that right?

2 A. Six.

3 Q. Oh, okay. So six years. Did you see what the final
4 mock-up for the SeaMAC ad was before it was actually sent to
5 King County?

6 A. Yes, I would have seen it and, yeah.

7 Q. And was it your view that the final that you sent on
8 satisfied the criteria of the advertising policy?

9 A. Yes, to our -- to the best of our ability, we felt
10 we met the basic advertising restrictions.

11 Q. Including the controversial part?

12 MR. KOLDE: Objection, assumes facts not in evidence
13 about the controversial part being part of the written
14 policy.

15 Q. You may still answer.

16 A. So that day in time, okay. I'm going to put -- that
17 day in time we felt that the ad met the advertising
18 restrictions that we were proposing.

19 Q. Maybe I wasn't clear but that's what I meant. I
20 mean at the time you passed it onto King County.

21 A. We passed it onto King County as here's what we're
22 recommending, a copy for this program, run it up your flag
23 pole.

24 Q. And the time you passed it onto King County, did you
25 understand it was King County that actually made the

1 A. Sharron.

2 Q. Shinbo?

3 A. Yes.

4 Q. Other than maybe half a dozen phone calls and 1,400
5 e-mails, was there any other way that people communicated to
6 Titan who were not King County people about the SeaMAC ad?

7 A. Not to my knowledge.

8 Q. For example, letters, as old school as that may be?

9 A. Not to my knowledge.

10 Q. Someone actually coming in in person?

11 A. No.

12 Q. Did you give King County all of the e-mails that
13 Titan received?

14 A. We did.

15 Q. Do you remember when that first happened?

16 A. All of them?

17 Q. Yes, ma'am.

18 A. I want to say that it was after -- I think it was in
19 discovery.

20 Q. After the lawsuit was filed?

21 A. Yes.

22 Q. Before then, did Titan give King County any of the
23 e-mails?

24 A. I would -- yes. I sent a couple to King County.

25 And so typically we do that. They get copies of our

1 Q. Do you think it was more than a hundred?

2 A. Gosh, I don't know. And quite honestly, a lot of
3 those, they were cc'd on so I didn't have to. They went to
4 -- a lot of those e-mails went to myself, Dow Constantine,
5 Kevin Desmond, Sharron Shinbo, and Metro customer service
6 e-mail address. So there was quite a few that they got and
7 I got at the same time.

8 Q. Was there any discussion with Ms. Shinbo on the
9 topic of e-mails that were either threatening or potentially
10 threatening in terms of whether Titan should notify any law
11 enforcement officials about those.

12 A. Not that I know of from law enforcement issues with
13 me. I don't know what conversations she had with other
14 people at Titan or other people at Metro that had with
15 people at Titan.

16 Q. So during the week of December 20th, who at Titan
17 was involved in the controversy that was occurring around
18 the SeaMAC ad and the King County Metro buses?

19 A. Don Allman, Scott Goldsmith, Bruce Krivosha, Gail
20 Worthen, Jeff Smith, and Jennifer Quevedo to a certain
21 extent because it was her account.

22 Q. And yourself?

23 A. And myself.

24 Q. Who at King County were the Titan people working
25 with during that week on that topic? Sharron Shinbo?

1 Q. Do you think an ad with a burning Metro bus that's
2 being depicted in a violent way would qualify under the King
3 County advertising policy for display on a King County bus?

4 MR. KOLDE: Objection, calls for speculation. It's
5 also not this witness's decision.

6 A. I would have to review the advertising restrictions.

7 Q. Okay. Let's do that. Exhibit 25 would indeed be
8 the contract between Titan and King County?

9 A. Yes.

10 Q. January 2005?

11 A. Yes.

12 Q. All right. Let's take all our word for a moment
13 that it's complete, that is the contract. And under Section
14 6, King County lays out the restrictions it has on
15 advertising.

16 A. Right.

17 Q. So I think what I'm just wondering if you could help
18 us out with, Ms. Quadros, whether somebody submitting an ad
19 that has a picture of a burning bus on it, regardless of the
20 text, would qualify for advertising under the policy or at
21 least with the text you can see on Exhibit 136?

22 MR. KOLDE: Noting the same objection for the
23 record.

24 A. Our first reaction we would tell the client we would
25 want to change the photo.

1 Q. Why is that?

2 A. Because that is not a positive photo. I mean the
3 bottom line it's not a positive image.

4 Q. Would that image qualify under the policy?

5 MR. KOLDE: Same objection.

6 A. You know, I think it could definitely be offensive
7 to some people.

8 Q. All right.

9 A. Not to mention it's violent so we don't typically
10 allow violent looking things like that but -- I would have
11 to cite the exact and that would take a little while.

12 Q. It would. But it's most likely you would find it
13 and say, no, it doesn't work, right?

14 A. Well, we would have had them change that photo.

15 Q. Yes, ma'am.

16 A. Under normal circumstance.

17 Q. So let's look at 137 -- and the advertising
18 restrictions are here if you need them. I think we've got a
19 little better luck in being able to read the graphics that
20 are printed there, both the words and the picture. Does
21 that proposed ad qualify under the restrictions of the King
22 County Metro advertising policy?

23 MR. KOLDE: Objection, calls for speculation.

24 A. Again, this one we would have definitely worked with
25 the advertiser not to have a significant number of these

1 images in the ad.

2 Q. Like the ones with Adolf Hitler?

3 A. Yes, absolutely.

4 Q. Or equating any particular ethnic group with the
5 word savages?

6 A. Yes, absolutely. It's disparaging and it's
7 inappropriate.

8 Q. Yes, ma'am.

9 A. So, no, it wouldn't have gone very far.

10 Q. Okay. Before the SeaMAC ad was submitted to Titan,
11 had Titan worked on a potential advertising campaign where
12 it was words to the effect of Free Gaza?

13 A. Yes.

14 Q. Do you remember that one?

15 A. Yes.

16 Q. That was in 2009 about?

17 A. About.

18 Q. Do you know if any of the people that were with
19 SeaMAC were involved in that particular ad campaign?

20 A. I don't know.

21 Q. Who was the account executive on that one?

22 A. I don't remember.

23 Q. Ms. Quadros, was the process with the Free Gaza
24 campaign similar to the process with SeaMAC in that the
25 needs assessment was done, the graphics were completed, and

1 A. Right.

2 Q. So before then is what I'm asking about now. Before
3 then, were you aware of any discussions?

4 A. Like in 2005, 2006, where every now and then there
5 would be a discussion every time they had some push back of
6 complaints, they would be like, oh, you know, how do other
7 transit authorities handle this? But nothing that week
8 you're referring to.

9 Q. Okay. Or really nothing that year?

10 A. Nothing that year, yes. Better answer. Nothing
11 that year.

12 Q. Did you get the sense from Ms. Shinbo that what she
13 was dealing with during the week of December 20 concerning
14 the SeaMAC Metro bus ad dialogue was time consuming?

15 A. Oh, it was definitely time consuming.

16 Q. And did you get that sense from her that that was
17 true of all the folks at King County that were having to
18 deal with that?

19 A. I don't know.

20 Q. Did she talk about what other people were doing?

21 A. Not really.

22 Q. But for her?

23 A. For her. That's her gig. Everything points to her.

24 (Exhibit 196 marked.)

25 Q. Ms. Quadros, we had marked as Exhibit 196 some

EXHIBIT U

30(b)(6) - Sharron Shinbo

May 13, 2011

Page 1

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SEATTLE MIDEAST AWARENESS	)	No.
CAMPAIGN, a Washington	)	2:11-cv-00094-RAJ
non-profit corporation,)	
Plaintiffs,)	
vs.)	
KING COUNTY, a municipal)	
corporation,)	
Defendants.)	

30(b)(6) Deposition Upon Oral Examination of:

KING COUNTY

DESIGNEE: SHARRON SHINBO

May 13, 2011

500 Fourth Avenue, Suite 900

Seattle, Washington

REPORTED BY: PEGGY FRITSCHY HAMILTON, RPR, CSR, CLR,
29906/No. 2704

1 because you don't really know what exactly Titan 360
2 is. Does that sound fair?

3 A. Yes.

4 Q. All right. What are your duties as project
5 manager?

6 A. I review transit advertising, and I oversee
7 the administration of the transit advertising
8 contractor.

9 Q. And that would be Exhibit-25, provided that
10 we could come up with Amendments 2 and 3?

11 A. Yes.

12 Q. Is there a practice in your unit for
13 determining whether a particular application to
14 advertise on a Metro bus meets the criteria of the
15 King County advertising policy?

16 MR. KOLDE: Objection insofar as the
17 question uses the term unit.

18 But go ahead and answer the question.

19 Q. Do you understand the question?

20 A. Could you please repeat the question?

21 Q. Let's do that. In your position as manager,
22 is there a practice or are there policies for
23 determining whether the application for a particular
24 ad to go on a Metro bus satisfies the King County
25 criteria in its advertising policy?

EXHIBIT V

Page 1

SEATTLE MIDEAST AWARENESS)
CAMPAIGN, a Washington non-profit)
corporation,)
Plaintiff,)
vs.) No. 11-cv-00094-RAJ
KING COUNTY, a municipal)
corporation,)
Defendant.)

Deposition Upon Oral Examination of
SHARRON SHINBO

500 Fourth Avenue
Ninth Floor
Seattle, Washington

DATE: June 14, 2011

REPORTED BY: Christina Atencio, CCR #2749

1 Q. And as part of the program manager, do your duties
2 involve reviewing proposed ads that might be placed on the
3 sides of Metro buses?

4 A. Yes.

5 Q. Does that also include approval for proposed ads
6 that are being offered to be put on the sides of Metro
7 buses?

8 MR. KOLDE: Objection, vague as to scope. Go ahead
9 and answer.

10 A. Yes.

11 Q. How long have you had your current position?

12 A. A little over 25 years.

13 Q. Is it your experience or understanding that Metro
14 has always accepted non-commercial advertising for the
15 placement of ads on the sides of its buses?

16 A. May I make one correction to what I just told you
17 about my position?

18 Q. Yes, ma'am. Please do. Thank you.

19 A. I wanted to clarify that I reviewed transit
20 advertising for 25 years, but I've had different positions
21 at Metro.

22 Q. By positions, you mean...

23 A. Job titles.

24 Q. And perhaps different levels of responsibility?

25 A. Yes.

1 Q. Is that the decision making question? Is there any
2 reason it should be denied?

3 A. I don't understand what you're asking me.

4 Q. I'm asking you to explain what you just told me.

5 A. Okay.

6 MR. KOLDE: Then ask her a question she understands.
7 Objection, vague.

8 Q. Is that the decision making question for you? Is
9 there reason why the ad should be denied?

10 A. Yes. After going through every line of our
11 advertising policy and looking at the ad itself, I'm asking
12 myself is there any reason that ad should be denied based on
13 those written policies.

14 Q. That's your practice?

15 A. It also -- are you asking me to explain my entire
16 review practice?

17 Q. I am now. So what is your entire review practice?
18 Why don't we do that first?

19 A. As I stated in my earlier deposition, when I receive
20 an ad, it might usually be over -- attached to an e-mail
21 message. I then go and I print out the ad on a color
22 printer and I physically take that ad and I physically take
23 the written advertising policies and I look at both the copy
24 and the text and I go through every single line, every
25 single policy of our written policy. If there's a phone

1 ahead and answer.

2 A. Are you asking standards for review?

3 Q. Well, I'm just trying to figure out how would Titan
4 know whether to send Metro an ad for Metro's review?

5 A. I would assume they would look at the advertising
6 restrictions. And if they have any questions, that they
7 send that proposed ad to Metro.

8 Q. Questions about whether it applies or not, I mean --
9 pardon me -- whether it qualifies or not?

10 A. Questions about whether the proposed ad in terms of
11 the copy and the text violate any of the restrictions.

12 Q. Do you think that that decision making process by
13 Titan -- at least as communicated by Metro -- is when in
14 doubt, call us at Metro?

15 A. Yes.

16 Q. Do you think it's important to Metro to be able to
17 have the right to decide whether an ad does qualify or
18 should be rejected?

19 A. Yes.

20 Q. Is that a right that Metro believes it has
21 exclusively?

22 MR. KOLDE: Object to the form of the question,
23 confusing. Go ahead and answer.

24 A. We have that right and have written that right in
25 the agreement.

1 different creatives through the review process by King
2 County; is that correct?

3 A. Yes.

4 Q. And then of those approximate two to five, only one
5 was rejected; is that correct?

6 A. Yes.

7 Q. And the one that was rejected, you're referring to
8 the one that was rejected by the Executive sometime after
9 December 17, 2010; is that correct?

10 A. Yes.

11 Q. Is it also the same creative that the Executive had
12 approved in November 2010?

13 A. You said the Executive approved?

14 Q. I did -- well, I'm asking.

15 A. The Executive did not approve a creative in
16 November.

17 Q. What did he approve in the context of the SeaMAC ad?

18 A. Kevin Desmond and I approved the SeaMAC ad in
19 November or December, that time frame. We did not ask the
20 Executive for his approval.

21 Q. Do you have an understanding, Ms. Shinbo, that King
22 County Executive Dow Constantine approved the display of the
23 SeaMAC ad on the side of a Metro bus before December 17,
24 2010?

25 A. It was my understanding he concurred with Transit's

1 anybody else involved in that decision including King County
2 Prosecuting Attorneys?

3 MR. KOLDE: I'm going to object to the form of the
4 question. It's argumentative and misleading. Tha PAO is
5 not a decision maker here. Go ahead and answer the
6 question.

7 A. None of the attorneys are decision makers. When we
8 go to the prosecuting attorney, we want to hear what they
9 have to say but they don't decide.

10 Q. All right. So other than Mr. Desmond and yourself,
11 was anybody else involved in the decision to approve the
12 SeaMAC ad?

13 MR. KOLDE: Same objection as before. Go ahead and
14 answer.

15 A. No.

16 Q. All right. Ms. Shinbo, I've been drawing in terms
17 of the time frame, a distinction between before December 17,
18 2010 and after. Do you understand that that's the date that
19 the news was reported that the ad was about to be displayed
20 on the bus?

21 A. Yes.

22 Q. Is it your understanding it was sometime after the
23 news was reported about what was going to happen, that it
24 was sometime after that news story that the decision was
25 made to not display the SeaMAC ad?

1 MR. KOLDE: Object to the form of the question, same
2 objection.

3 A. Please clarify qualify.

4 Q. Well, that it wouldn't be rejected.

5 A. Oh, okay. If it wouldn't be rejected, I might show
6 Kevin. Because even though it might not be rejected, there
7 might be concern or reaction.

8 Q. And what is it that you would consider, Ms. Shinbo,
9 in trying to decide whether to show Mr. Desmond an ad that
10 had been referred by Titan for King County's review?

11 MR. KOLDE: Objection, misleading as to the purpose
12 of interaction with Mr. Desmond. Go ahead and answer.

13 A. Please repeat the question.

14 Q. Yes, ma'am. What kind of criteria were you
15 considering when you were trying to make the decision of
16 should I show this creative or this ad to Kevin Desmond
17 that's been referred to us by Titan for our decision?

18 MR. KOLDE: Objection, misleading. Go ahead and
19 answer.

20 A. I don't use written criteria to decide whether I'm
21 going to talk to Mr. Desmond or show him the ad if it's been
22 rejected or it's been accepted. I base that on my personal
23 experience of 25 years in knowing what kinds of ads
24 sometimes generate concern.

25 Q. All right. And I didn't mean to hamstring you with

1 written criteria. I meant any criteria. And it's the last
2 part of your answer that I'm wondering if you could explain
3 a little bit more. I mean what is it that made you look at
4 an ad and say this is maybe one I should check in with Kevin
5 Desmond on?

6 MR. KOLDE: Objection, misleading. Go ahead and
7 answer.

8 A. The words on the ad were very negative, and I am not
9 a historical buff.

10 Q. You're talking about the SeaMAC ad, right?

11 A. Yes.

12 Q. I'm talking about as a matter of your practice. I'm
13 not focusing on the SeaMAC ad right now. There's been about
14 a hundred ads or so over the last five or six years that
15 Titan sent to Metro and said or asked does this satisfy the
16 criteria of the advertising policy or not, okay.

17 A. Fewer than a hundred.

18 Q. Fewer than a hundred, all right. And of those fewer
19 than a hundred, I understood you to say that if you thought
20 the ad did not, that you routinely would not ask Mr. Desmond
21 about that; is that correct?

22 A. That the ad did not what?

23 Q. Satisfy the criteria of the advertising policy that
24 is Exhibits 25 and Exhibit 25B.

25 MR. KOLDE: Object to the form of the question.

1 times that this has happened?

2 MR. KOLDE: Same objection, calls for speculation,
3 asked and answered. Go ahead and answer.

4 A. I can't recall.

5 Q. Ms. Shinbo, in those circumstances where Titan has
6 asked for Metro's decision on whether a proposed ad violates
7 the advertising restrictions, is it correct that if you've
8 decided it does violate the restrictions, that as a matter
9 of practice, you do not seek Mr. Desmond's input on that
10 decision; is that correct?

11 A. If it's very clear to me in looking at the copy and
12 the text that it clearly violates one of the restrictions, I
13 don't ask Kevin Desmond for his input.

14 Q. Okay.

15 A. Unless there might be some controversy related to
16 the ad, we'll talk about it.

17 Q. Earlier you said having a phone number or a web site
18 on the proposed creative was either required or -- well, it
19 was required, right?

20 A. Yes, if it isn't clear who the advertiser is.

21 Q. And I thought you said the reason that that's there
22 is that people who see the ad who might be concerned. And I
23 wasn't sure I understood what you meant by that.

24 A. Some people when they see an ad on a Metro bus,
25 believe it's Metro expressing what the bus says, what the

1 Q. What was it that you told him about the advertising,
2 the history of the advertising program?

3 A. I probably talked about how long we had an
4 advertising program, since the '70s; that we always had
5 advertising written advertising restrictions in place during
6 that period in our contracts; that we had controversial ads
7 before but there was no basis on our current advertising
8 restrictions to prohibit this ad.

9 Q. Did you think that the SeaMAC ad was controversial?

10 MR. KOLDE: Objection as to temporal scope as to
11 timing. Go ahead and answer.

12 Q. Ms. Shinbo, as of the date of the meeting with the
13 Executive on November 9, going through that period of time,
14 did you think that the ad was controversial?

15 A. Up to November 9th?

16 Q. Yes, ma'am.

17 A. I thought it might be controversial.

18 Q. Did you think it was?

19 MR. KOLDE: Objection, asked and answered.

20 A. I thought it might be controversial.

21 Q. Let me show you what has been marked as Exhibit 121.
22 I'm sorry I'm going out of order. Do you recognize that
23 document?

24 A. Yes, I do.

25 Q. Is this the version of the SeaMAC ad that was

1 history of the advertising policy on November 9?

2 MR. KOLDE: Objection, asked and answered, calls for
3 speculation. Go ahead and answer.

4 Q. I meant the question. What else did you tell him,
5 not what you've already testified about.

6 MR. KOLDE: Same objection. Go ahead and answer.

7 A. That's all I can remember right now.

8 Q. During that discussion about the history of the
9 Metro advertising policy, did you advise the Executive that
10 King County Metro had always accepted non-commercial
11 advertising?

12 MR. KOLDE: Object to the form of the question,
13 mischaracterized prior testimony. Go ahead and answer.

14 A. Yes, I might have.

15 Q. Did you tell him that the non-commercial advertising
16 that had been accepted included advertising concerning
17 candidates for elected office, ballot measures, and cause
18 advertising?

19 MR. KOLDE: Same objection.

20 A. Yes --

21 MR. KOLDE: Calls for speculation. Go ahead and
22 answer.

23 A. I might have provided examples like that.

24 Q. Did you tell the Executive that ads on King County
25 Metro buses had been displayed when they were controversial?

1 A. Yes.

2 Q. Do you remember anything that the Executive said
3 during that meeting about the SeaMAC ad?

4 MR. KOLDE: Same cautioning about attorney-client
5 privileged conversations, otherwise please answer the
6 question.

7 A. I don't recall anything specific at this time. The
8 meeting was quite sometime ago.

9 Q. Do you know if anybody was taking notes?

10 A. I wasn't paying attention. I was speaking.

11 Q. All right. So this may be overly precise. But I am
12 wondering if you know if anyone was taking notes or not of
13 the meeting?

14 MR. KOLDE: Objection, asked and answered, calls for
15 speculation.

16 MR. GRANT: You know, I don't see how you can object
17 on speculation when the question is do you know. You need
18 to explain that to me.

19 MR. KOLDE: She's answered the question. She said
20 she didn't know. She wasn't paying attention. You're
21 asking her again. You're inviting speculation. That's an
22 appropriate objection. You would be never allowed to do
23 that in court, and it's not appropriate at a deposition
24 either.

25 MR. GRANT: Well, she actually didn't say whether

1 making process?

2 A. I made a recommendation to Kevin.

3 Q. And what did he do with your recommendation?

4 A. He concurred.

5 Q. Did the Executive get involved in the decision about
6 whether the Lucy with the puppet cleavage ad should be
7 rejected?

8 A. No.

9 Q. All right. Let's then go up to the next e-mail.
10 About eight-and-a-half hours later, Mr. Desmond is asking
11 you whether there are any free speech political messages
12 that we've rejected. Do you see that?

13 A. Yes.

14 Q. Did you answer him on that one?

15 A. I probably answered Kevin because I answer most of
16 his questions.

17 Q. Yes, ma'am. What was the answer?

18 A. I probably said, no, there have been no political
19 messages that we've rejected.

20 Q. Or no free speech political messages that have been
21 rejected, right?

22 MR. KOLDE: Objection, mischaracterizes prior
23 statement. Go ahead.

24 A. I probably wouldn't have said free speech political
25 messages.

1 A. I think just the ad, having seen the ad.

2 Q. Concerned about what?

3 MR. KOLDE: Same objection, calls for speculation
4 about another person's state of mind. Go ahead and answer.

5 A. When he saw the text and graphics, he looked
6 concerned.

7 Q. Ms. Shinbo, do you remember any time in the 25 years
8 you've been involved in the Metro advertising policy, where
9 the person in Mr. Abe's position that he had in November
10 2010 was brought into the process in terms of whether a
11 proposed ad should be rejected based on the language of the
12 advertising policy of Metro?

13 MR. KOLDE: Objection, mischaracterizes prior
14 testimony about Mr. Abe's role. Please answer the question.

15 A. We weren't bringing Mr. Abe in for some role related
16 to whether or not the ad should be rejected.

17 Q. What were you doing?

18 A. I believe we were trying to notify Mr. Abe so that
19 we could brief the Executive on the ad and show him the ad
20 and show him our policies.

21 Q. So was it your understanding that Mr. Abe was really
22 just a conduit to try to get to the Executive?

23 A. Yes.

24 Q. All right. Mr. Desmond didn't have Dow Constantine
25 on his speed dial, I take it. All right. I mean did Kevin

1 MR. KOLDE: Same objection. It is vague and assumes
2 facts not in evidence about the purposes of the county's
3 policy. And it asks this person for a legal conclusion that
4 she's not qualified to give. Go ahead and answer.

5 A. I'm having great difficulty understanding your
6 question. Can you break up your question or clarify it or
7 ask it a different way?

8 Q. I'm doing the best I can. But I think I have
9 limited tools to make that happen, so let me try another
10 way.

11 Do you agree that one of the benefits of the
12 restrictions in the King County Metro advertising policy is
13 that it allows for freedom of thought and opinion here in
14 the United States, even though the views expressed in the
15 ads on the bus aren't agreed with by everybody?

16 MR. KOLDE: Object to the form of the question.
17 It's vague and confusing, calls for a legal conclusion, and
18 it assumes facts not in evidence about the purposes of the
19 policy. Go ahead and answer.

20 Q. Ms. Shinbo, let's just be clear about something.
21 I'm not asking about the purpose. I'm asking about the
22 benefits?

23 MR. KOLDE: Same objection, also calls for
24 speculation about benefits. Go ahead and answer.

25 A. The benefit of our advertising policies, one of the

1 them. It's not our message.

2 Q. Are you done?

3 A. Yes.

4 Q. She's talking about the King County Metro
5 advertising policy; is that right?

6 A. Yes, and she attached the policy.

7 Q. Yes, ma'am. And if you understood Titan was
8 inaccurately characterizing the King County Metro
9 advertising policy, would you have notified Titan that they
10 were doing so and directed them to stop doing it?

11 MR. KOLDE: Same objections. The witness has
12 testified she does not know. Please answer the question
13 again.

14 A. I believe I would have said it differently on behalf
15 of King County.

16 Q. Yes, ma'am. If you understood that Titan was
17 inaccurately reporting information about King County Metro's
18 advertising policy, would you have contacted Titan and told
19 them to quit doing that?

20 MR. KOLDE: Objection, calls for speculation, asked
21 and answered.

22 A. I think there's a difference between being
23 inaccurate and...

24 Q. And what?

25 A. I'm thinking of the right word to convey my

EXHIBIT W

Sheriff Susan Rahr

June 23, 2011

Page 1

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SEATTLE MIDEAST AWARENESS	)	No.
CAMPAIGN, a Washington	)	2:11-cv-00094-RAJ
non-profit corporation,)	
Plaintiffs,)	
vs.)	
KING COUNTY, a municipal)	
corporation,)	
Defendants.)	

Deposition Upon Oral Examination Of
SHERIFF SUSAN RAHR

June 23, 2011
500 Fourth Avenue, Suite 900
Seattle, Washington

REPORTED BY: PEGGY FRITSCHY HAMILTON, RPR, CSR, CLR,
29906/No. 2704

1 Go ahead and answer.

2 A. Are you asking if I was concerned whether
3 Captain Baxter could fulfill that role, or not?

4 Q. I think that's what I'm trying to get at.
5 Were you?

6 A. I think under normal circumstances, a new
7 captain would be perfectly capable. With an unknown
8 community reaction, I wanted to make sure he had
9 another layer of consultation with Chief Cummings
10 during the course of that week.

11 Q. Did you understand that that would have been
12 available to Captain Baxter during the week of
13 December 27?

14 A. My discussions with Chief Cummings were that
15 she needed to be available to consult with him during
16 that week, rather than being on full vacation.

17 Q. Okay. She had earlier at least planned to be
18 an vacation the week of December 27?

19 A. Yes.

20 Q. But the plan was in light of the events that
21 were unfolding during the week of December 27 --
22 pardon me, December 20. So, in light of the events
23 that were unfolding during the week of December 20th,
24 that Deputy Chief Cummings would be available as a
25 layer of support for Captain Baxter while he was the

1 specifically.

2 Q. Did you have more than the one communication
3 with Mr. Desmond that you just identified?

4 A. I believe just one. I don't think we had any
5 further conversations.

6 Q. Was this in person?

7 A. On the telephone.

8 Q. Do you know if anybody else was participating
9 in the call?

10 A. I don't believe so.

11 Q. What was your take on his attitude?

12 MR. KOLDE: Objection, calls for
13 speculation.

14 Please testify.

15 A. My recollection was that he was very
16 concerned about disruption, about danger to the people
17 riding the bus.

18 Q. Did he say anything about where The Executive
19 was in terms of his thinking at that point in time?

20 A. The impression I had from Kevin was that The
21 Executive was inclined to run the ads.

22 Q. Did you yourself express an opinion about
23 that when you were speaking to Mr. Desmond?

24 A. Yes, I did.

25 Q. What was it?

1 A. I told him that I thought that it was an
2 unreasonable risk.

3 Q. And what exactly was the risk that you were
4 thinking about? The risk of what?

5 A. A couple of things. As I said, I was
6 concerned about an emotional, spontaneous type of
7 reaction from people who may be marginally suffering
8 from emotional issues. During the holidays, we always
9 see an escalation in suicides, fights. Anything
10 involving emotional stability is going to be on the
11 edge around the holidays to begin with.

12 Q. Is there anything else that you can recall
13 that you and Mr. Desmond discussed when you spoke with
14 him during the week of December 20?

15 A. No.

16 Q. Did you make any notes of the call you had
17 with Mr. Desmond?

18 A. I doubt it. I generally don't take notes.

19 Q. Okay. Do you recall sharing the information
20 you had from Mr. Desmond with anybody within the
21 Sheriff's Office?

22 A. I may have.

23 Q. All right. When you were speaking to
24 Mr. Desmond that week, did you make any statement to
25 the effect that you were prepared to speak out

1 A. In the discussion I conveyed to him my
2 concern about the risks. I recall him expressing his
3 concern about First Amendment issues, and the
4 necessity of balancing the First Amendment with risk
5 to the public. I don't remember the specific words.
6 I think there was a conversation about whether or not
7 we had specific terrorist threats from a terrorist
8 group, and my general message to him was my concern
9 was more for local people who were going to overreact;
10 have a bad reaction to the ads.

11 Q. Do you recall The Executive giving you any
12 information about specific threats or potential
13 threats that he was aware of?

14 A. I don't know if we talked about the specific
15 threats, no.

16 Q. Sheriff Rahr, did you repeat to The Executive
17 the comment that you had made to Mr. Desmond about
18 your intent to speak out on this issue if asked?

19 MR. KOLDE: Objection, misstates prior
20 testimony.

21 Go ahead and answer.

22 A. I told him that I would speak out publicly
23 about my opinion if I was asked, yes.

24 Q. What was his reaction to that?

25 A. I don't recall if he had a reaction.

EXHIBIT X

Linda Thielke

May 20, 2011

Page 1

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SEATTLE MIDEAST AWARENESS	)	No.
CAMPAIGN, a Washington	)	2:11-cv-00094-RAJ
non-profit corporation,)	
Plaintiffs,)	
vs.)	
KING COUNTY, a municipal)	
corporation,)	
Defendants.)	

Deposition Upon Oral Examination Of
LINDA THIELKE

May 20, 2011
500 Fourth Avenue, Suite 900
Seattle, Washington

REPORTED BY: PEGGY FRITSCHY HAMILTON, RPR, CSR, CLR,
29906/No. 2704

1 the time you called Mr. Schauffler back, did you do
2 anything else about the SeaMAC ad?

3 A. I probably looked up my talking points that
4 I've used in cases like this before.

5 Q. When you say talking points, what do you mean
6 by that?

7 A. This topic comes up not regularly, but often
8 enough that I have established some talking points
9 that I've written up using information provided to me
10 by the subject matter experts in the department, so
11 that I can give accurate information to the media. A
12 lot of times they need to be educated about the
13 transit advertising in general.

14 Q. They, the media?

15 A. Correct.

16 Q. And what was the topic that you had in mind?
17 You said this topic comes up enough that there were
18 these established talking points.

19 A. Transit advertising.

20 Q. Are there different talking points you
21 maintain for different topics?

22 MR. KOLDE: Object to the form of the
23 question, vague as to transit advertising or other
24 subject matter.

25 Go ahead and answer.

1 A. So, I would ask, are you talking about
2 transit advertising, different topics within transit
3 advertising, or topics different than transit
4 advertising?

5 Q. The latter, topics different than transit
6 advertising.

7 A. Yes, I do have some talking points that I
8 take out if it's been a while. I make sure they're
9 up-to-date before I use them.

10 Q. Did you do that here with the SeaMAC ad, to
11 make sure they were up to date?

12 A. I don't recall, but that would be my standard
13 practice.

14 Q. Do you remember what the talking points were?

15 A. They're generally about our guidelines that
16 are in part of our advertising contract. That's
17 usually the ones that reporters have the most
18 questions about, and then sometimes they want to know
19 about the logistics of how does someone who wants to
20 advertise on the side of a bus go about doing it. Do
21 they contact Metro directly? So they sometimes have
22 questions about the actual how you do it.

23 Q. Before contacting Mr. Schauffler, did you
24 look at the SeaMAC ad?

25 A. I probably looked for that email from

1 Q. How long was the interview?

2 A. They're usually less than five minutes.

3 Q. Who was present besides you and
4 Mr. Schauffler during the interview?

5 A. Camera man.

6 Q. Were you filmed?

7 A. Yes.

8 Q. I haven't seen the story, so maybe you appear
9 on the KING 5 story, and then I guess I would know
10 that, but I haven't.

11 A. I don't know that I've seen it either.

12 Q. Do you remember approximately what time of
13 the day the interview happened?

14 A. Probably midafternoon.

15 Q. Was it at your office?

16 A. It was outside my office.

17 Q. When you say outside your office, where was
18 it?

19 A. On the street. They like to do that on the
20 street, in case they can get a bus going by in the
21 background.

22 Q. They're clever like that.

23 A. They like the natural sound.

24 Q. Yeah. Do you remember doing anything else
25 that day in connection with the SeaMAC ad?

1 campaigns, did Mr. Schauffler accurately quote you?

2 A. Yes.

3 Q. And these quotes were statements that you
4 made at the time that you were serving as King County
5 Metro Transit spokesperson about this particular
6 SeaMAC ad; right?

7 A. Correct.

8 MR. KOLDE: Object to the form of the
9 question, move to strike.

10 Go ahead.

11 Q. If you go back to the first page,
12 Ms. Thielke, I may not get this exactly right, but
13 this document is supposed to be a printout from a
14 website published by an outfit that goes by Al-Qassam.
15 Did you ever see this particular document before, or
16 in this format?

17 A. I don't remember seeing it.

18 Q. Did you at some point learn that the KING 5
19 news story about the SeaMAC ad had run on this
20 website, Al-Qassam?

21 A. I don't remember that, that name, Al-Qassam.

22 Q. Did you hear about this particular story on a
23 website that was similar to Al-Qassam?

24 A. I'm sorry. I don't know what Al-Qassam is.

25 Q. Okay. I mean, had you ever heard that there

1 answered.

2 Go ahead.

3 A. I believe that it was accurate.

4 Q. All right. Without telling me what was said,
5 in other words, just a yes or no or I don't know or I
6 don't remember, have you had any communications with
7 King County prosecuting attorneys involving the SeaMAC
8 ad and the Metro advertising policy?

9 MR. KOLDE: I'm going instruct the witness
10 not to answer the question with regard to
11 communications that are related to this litigation.

12 MR. GRANT: It's just a yes, no, I don't
13 know, I don't remember. I don't want to know the
14 content yet. That's a different question.

15 MR. KOLDE: Well, counsel, I would
16 appreciate it if you could be more specific as to the
17 time period, and I think that might also have
18 something to do with the response and the objection
19 you are going to draw from us. If you are able to
20 reduce the scope as to a particular time period, like
21 before or after December 23rd, I think that might be
22 helpful. It's up to you.

23 MR. GRANT: It is up to me, and I will let
24 the question stand.

25 MR. KOLDE: Okay. Same objection, and I